

PLANNING COMMISSION AGENDA
CITY OF NEWPORT BEACH
COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
Thursday, March 3, 2011
Regular Meeting - 6:30 p.m.

EARL MCDANIEL
Chairperson

ROBERT HAWKINS

FRED AMERI

CHARLES UNSWORTH

MICHAEL TOERGE

BARRY EATON

BRADLEY HILLGREN

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

JAMES CAMPBELL, Acting Planning Director

LEONIE MULVIHILL, Assistant City Attorney

PATRICK ALFORD, Planning Manager

TONY BRINE, City Traffic Engineer

KAY SIMS, Assistant Planner

MELINDA WHELAN, Assistant Planner

JAIME MURILLO, Associate Planner

MAKANA NOVA, Assistant Planner

MARLENE BURNS, Administrative Assistant

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. Staff reports or other written documentation have been prepared for each item of business listed on the agenda. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Planning Department staff at (949) 644-3200. The agendas, minutes and staff reports are also available on the City's web site at: <http://www.newportbeachca.gov>.

This committee is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally either three (3) or five (5) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

NEWPORT BEACH PLANNING COMMISSION AGENDA
Council Chambers – 3300 Newport Boulevard
Thursday, March 3, 2011
REGULAR MEETING
6:30 p.m.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

D. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to 3 minutes. Before speaking, please state your name for the record and print your name on the tablet provided at the podium.

E. REQUEST FOR CONTINUANCES

F. CONSENT ITEMS

ITEM NO. 1 Minutes of February 17, 2011 – Will be forthcoming.

G. NON-PUBLIC HEARING ITEMS

ITEM NO. 2 General Plan Annual Progress Report (PA2007-195)

ACTION: Receive and file.

H. PUBLIC HEARING ITEMS

ALL TESTIMONY GIVEN BEFORE THE PLANNING COMMISSION IS RECORDED. SPEAKERS MUST LIMIT REMARKS TO THREE MINUTES ON ALL ITEMS. (Red light signifies when three minutes are up; yellow light signifies that the speaker has one minute left for summation.) Please print only your name on the pad that is provided at the podium.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Planning Department located at 3300 Newport Boulevard, during normal business hours.

ITEM NO. 3 Jamboree Chevron (PA2008-165)
1550 Jamboree Road

SUMMARY: The application consists of a conditional use permit to allow the following design and operation changes to an existing service station: demolition of three, unused service bays to increase the floor area of the existing convenience market; introduction of off-site beer and wine sales (Type 20); the addition of an automated car wash; removal of an existing office/storage building and trash enclosure; construction of a new trash enclosure; the addition of landscaping areas; and related interior and exterior improvements. The application also includes a modification or waiver of the landscaping standards of the Zoning Code to allow fewer trees and shrubs than required.

CEQA

COMPLIANCE: The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures).

- ACTION:**
- 1) Conduct public hearing; and
 - 2) Adopt Resolution No. ____ approving Use Permit No. UP2008-051.

ITEM NO. 4 Crow Burger Kitchen Appeal (PA2010-155)
3107 Newport Boulevard

SUMMARY: An appeal of the Zoning Administrator's approval of Minor Use Permit No. UP2010-036 allowing an eating and drinking establishment (food service with no late hours) with a covered patio and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license.

CEQA COMPLIANCE: The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures). The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. This exemption also includes accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

The proposed project involves the establishment of a restaurant in an existing tenant space and the construction of a new outdoor patio. The proposed use is less than 2,500 square feet. Therefore, both the interior use and outdoor patio qualify for a categorical exemption under Class 3.

- ACTION:**
- 1) Conduct a de novo hearing; and
 - 2) Adopt Resolution No. ____ denying the appeal and upholding and affirming the decision of the Zoning Administrator to approve Minor Use Permit No. UP2010-036, subject to the findings and conditions of approval included within the draft resolution.

ITEM NO. 5 Malarky's Irish Pub (PA2010-172)
3011 Newport Boulevard

SUMMARY: The application consists of a conditional use permit request to expand an existing eating and drinking establishment and to allow for the use of off-site parking. The application also includes a request for a comprehensive sign program to allow more than 3 signs on a single-tenant building.

CEQA COMPLIANCE: The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). This exemption authorizes additions to existing structures of up to 10,000 square feet. The proposed project consists of a 565-square-foot interior dining room expansion and the construction of a new 782-square-foot outdoor dining patio, and therefore, qualifies under this exemption.

- ACTION:**
- 1) Conduct a public hearing; and
 - 2) Adopt Resolution No. ____ approving Use Permit No. UP2010-039 and Comprehensive Sign Program No. CS2011-003.

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 Planning Director's report.

ITEM NO. 7 Planning Commission reports.

ITEM NO. 8 Office of the City Attorney

1) Mandatory AB 1234 Training Notice to Commissioners at the Council Chambers

a. Tuesday, March 29, 2011 from 10:00 a.m. to 12:00 p.m.

OR

b. Thursday, March 31, 2011 from 6:00 p.m. to 8:00 p.m.

ITEM NO. 9 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

ITEM NO. 10 Request for excused absences.

ADJOURNMENT

Please note that Minutes will be forthcoming.

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

March 3, 2011 Meeting
Agenda Item No. 2

SUBJECT: General Plan Annual Progress Report including Housing Element Report (PA2007-195)

PLANNER: Melinda Whelan, Assistant Planner
(949) 644-3221, mwhelan@newportbeachca.gov

RECOMMENDATION

Receive and file.

DISCUSSION

Government Code Section 65400 mandates that the City prepare an annual report on the status of the General Plan and the progress of implementation. Specific requirements are included in the report which are mandated by Government Code Section 65400(B) and Government Code Sections 65583 and 65584, relating to implementation of the Housing Element of the General Plan. The report will be submitted to the City Council and a copy is required to be sent to the Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD).

The General Plan Annual Progress Report (Attachment No. PC 1) follows preparation guidelines set forth by OPR and provides information for decision makers on the status of the General Plan and progress on implementation during the 2010 calendar year. Not all Implementation Programs are included. Implementation Programs on the General Plan Implementation Task List created by the General Plan/Local Coastal Program Implementation Committee were reviewed. The list created by the Committee identified the priority General Plan Implementation Program tasks to implement the General Plan.

As mandated by Government Code Sections 65583 and 65584, the Housing Element Report of the General Plan Annual Progress Report demonstrates the City's progress in meeting its share of regional housing needs and Housing Element programs. As recommended by Government Code Section 65400(B) staff used guidelines provided by HCD to prepare this Report. The Housing Element section includes the following information:

- A. Annual building activity reports for new housing units;
- B. Regional housing needs allocation progress; and
- C. Program implementation status including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing.

Environmental Review

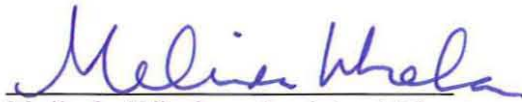
The Report is not subject to CEQA, as the actions are not a project as defined in Section 15378(b) (2) of the Public Resources Code.

Noticing


The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Planning Commission considers the item).

Prepared by:

Submitted by:



Melinda Whelan, Assistant Planner



Patrick Alford, Planning Manager

ATTACHMENTS

PC 1 General Plan Annual Progress Report (Including Housing Element Report)

Attachment No. PC 1

General Plan annual Progress Report
(Including Housing Element Report)



CITY OF NEWPORT BEACH

GENERAL PLAN ANNUAL PROGRESS REPORT

(Including Housing Element Report)

2010 Calendar Year

Consistent with Government Code Section 65400, the General Plan Annual Progress Report was prepared using guidelines set forth by OPR and provides information for decision makers on the status of the General Plan and progress on implementation during the 2010 calendar year. The updated Newport Beach General Plan was adopted in November 2006 pursuant to guidelines provided in Government Code Section 65040.2 and consistent with Section 65400(a)(2)(c). On December 12, 2006, City Council created the General Plan/Local Coastal Program Implementation Committee for the purpose of guiding implementation of the General Plan and Local Coastal Plan. The Committee created the General Plan Implementation Task List to implement the General Plan. This report evaluates and provides the status of work on each task as well as on other tasks not included on the Task List.

The Housing Element Report addresses specific requirements mandated by Government Code Section 65400(a)(2), Government Code Sections 65584 and 65583, and can be found following the General Plan Implementation tasks.

A. GENERAL PLAN IMPLEMENTATION TASKS

| TASKS | | STATUS |
|--------------|--|---|
| 1. | Interim zoning resolution including the ability to require development agreements. (Land Use Element) | <i>Complete</i> City Council approved Ordinance No. 2006-07 amending Chapter 15.45 of the Municipal Code regarding development agreements in 2006. City Council adopted an interim zoning resolution in 2007 which included the ability to require development agreements through |

| | | |
|----|--|---|
| | | <p>an interim study .Two Interim Study Overlays were processed in 2010:</p> <ul style="list-style-type: none"> ▪ To allow mixed uses consistent with a MU-W2 (Mixed-Use Water Related) land use designation, which were not permitted uses under the existing Retail and Service Commercial (RSC) Zoning District. The project involved the renovation of an existing 5-story office building. ▪ To allow a food processing use consistent with an Industrial (IG) land use designation, which was not a permitted use under the existing Controlled Manufacturing (M-1-A) Zoning District. The project allowed for a winery. <p>Upon approval of the comprehensive Zoning Code Update in October, 2010, the interim study overlay zoning resolution is no longer active or needed as the Update provides zoning designations consistent with the 2006 General Plan update.</p> |
| 2. | Procedures to implement single- and two-family design policies. (Land Use Element) | <p>Complete</p> <p>The Zoning Code Update added design criteria for single and two-unit residential development. Implementation is ongoing.</p> |
| 3. | Zoning Code and Specific Plan rewrite. (Land Use Element) | <p>Complete</p> <p>The comprehensive Zoning Code Update was adopted by City Council on October 26, 2010. Six of the Specific Plans were incorporated into other residential zoning districts and Santa Ana Heights Specific Plan was revised and maintained in the updated Zoning Code.</p> |

| | | |
|----|---|---|
| 4. | Housing Element certification by the Department of Housing and Community Development (HCD) (Housing Element) | <p>Pending</p> <ul style="list-style-type: none"> ▪ The Draft Housing Element was re-submitted to HCD for their review and consideration in September of 2010. ▪ Staff is currently in the process of working with HCD to finalize required changes to Draft No. 3 and anticipates completing the revisions and resubmitting a revised draft to HCD by February 11, 2011. |
| 5. | Economic Development Strategic Plan Implementation (Land Use Element) | <p>Ongoing</p> <ul style="list-style-type: none"> ▪ Bi-annually update the Strategic Plan Implementation schedule, which includes objectives from the plan and a time line with allocated staff hours. ▪ Objective 2.2 Newport Center/Fashion Island renovations (Phase I) are complete. Phase II, a renovation of the movie theaters has begun. ▪ The City Council adopted the funding criteria, an application form, and procedures developed by the Special Events Advisory Committee (SEAC). The SEAC reviewed funding request applications and made recommendations to the City Council on special event funding prior to adoption of the 2010-2011 budget. ▪ Provided data and background information for development of the Lido Village Concept Plan, including input to departments for review of |

| | | |
|----|--|--|
| | | concept options. |
| 6. | Fair Share Fee update (Circulation Element) | <p>Pending</p> <p>Consultants hired by the City continue to work towards completion and adoption is anticipated in early 2011.</p> |
| 7. | Airport Area infrastructure study and fee (s) (Land Use Element) | <p>Pending</p> <p>Infrastructure recommendations have been prepared by ROMA Design Group. On September 22, 2010, the General Plan/Local Coastal Program Implementation Committee discussed the need to approve an improvement plan and develop a fee at this time, with little expressed interest in residential development on the southwest side of MacArthur Boulevard. By consensus, the Committee tabled the item.</p> |
| 8. | Inclusionary Housing Ordinance and In-lieu fee (Housing Element) | <p>Complete</p> <p>On May 11, 2010, the City Council adopted Ordinance No. 2010-9 adding a new chapter to the City's Subdivision Code which provides the legal justification for requiring in-lieu fees and procedures for the implementation of Housing Program 2.2.1. The Inclusionary Housing Chapter requires developers of residential subdivisions to facilitate production of affordable units in numbers equal to 15 percent of the number of for-sale market rate units produced. Affordable, for-sale units will be required to be sold at prices affordable for moderate-income households. If a subdivision developer chooses to provide affordable rental units, the rate shall be affordable to very-low or low-income households. In all cases, the affordable units shall be legally restricted to occupancy by, and affordable to, households of the</p> |

| | | |
|-----|---|--|
| | | income levels for which the affordable units were designated for a minimum duration of 30 years. |
| 9. | Parking requirements and management (Circulation Element) | <p>On-going</p> <ul style="list-style-type: none"> ▪ Policy issues related to implementation measures to form a parking management district in the Balboa Village area were presented to City Council at study session in September 2010. Subsequently, staff was directed to focus first on a Balboa Village Vision Plan, which might include a parking management district. ▪ The Balboa Market building was razed for construction of the parking lot at 608 E. Balboa Blvd. and 209 Washington St. The parking lot was opened to the public in December 2010. |
| 10. | Local Coastal Program Land Use Plan Amendments - Amend CLUP for consistency with General Plan Land Use Element (Land Use Element) | <p>Complete</p> <p>The follow-up General Plan Amendment Nos. GP2010-001, 004, 005, 006, 007, 008 (PA2010-052) within the Land Use Element were adopted by City Council on September 14, 2010, to eliminate several inconsistencies in land use designations.</p> |
| 11. | Traffic signal synchronization (Circulation Element) | <p>Pending</p> <ul style="list-style-type: none"> ▪ Phases 2 and 3 were completed in April 2010. ▪ Phases 4 and 7 are anticipated to be completed in early 2011. ▪ Phase 5 is in design and the construction contract is anticipated to be awarded by the City Council in April 2011. |

| | | |
|-----|--|---|
| 12. | Planned Community rewrite and revisions (Land Use Element) | <p><i>On-going</i></p> <ul style="list-style-type: none"> ▪ Property owners are responsible for amendments in the North Newport Center and Airport Area and revisions to other Planned Community texts have been put on hold due to budget constraints. ▪ The City prepared a conceptual development plan for Koll and Conexant (Airport Area). Based on the conceptual development plans they were preparing Planned Community amendments however, per the applicants request the projects were placed on-hold. ▪ Banning Ranch application includes the development of a Planned Community Development Text and the draft EIR is anticipated to be circulated in Spring 2011. |
| 13. | Banning Ranch Pre-Annexation and Development Agreement (Land Use Element) | <p><i>Pending</i></p> <ul style="list-style-type: none"> ▪ Notice of Preparation of EIR released in March 2009. ▪ Environmental Scoping meeting held in April 2009. ▪ Report of Funding Feasibility for Open Space Acquisition at City Council Study Session August 2009. ▪ City Council approved the water supply assessment in October 2010, concluding that there will be adequate water supplies to meet the demands of the Banning Ranch project. ▪ The draft EIR is anticipated to be circulated in Spring 2011. |
| 14. | Acquisition for Open Space – support active pursuit of Banning Ranch as | <p><i>Ongoing</i></p> |

| | | |
|-----|---|---|
| | permanent open space (Land Use Element) | <ul style="list-style-type: none"> The exploration for the acquisition of Banning Ranch is continual, but to date, no funding sources have been identified. |
| 15. | Harbor Area Management Plan (HAMP) (Harbor and Bay Element) | <p>Complete</p> <p>Council approved HAMP in November 2010.</p> |
| 16. | Run-off and Pollution Reduction Plan (Natural Resources Element) | <p>On-going</p> <ul style="list-style-type: none"> Continued compliance SARWQCB Water Quality Order No. R8-2009-0030 NPDES No. CAS618030 which is the storm water permit issued by the Santa Regional Water Quality Control Board (SRWQB). <p>The following actions were taken in using water more efficiently to result in lowered pollutant loads from entering storm drains and ultimately the bay and ocean:</p> <ul style="list-style-type: none"> Coordinated the Water Supply Implementation Plan. Continued Tiered Water Rate Development. Implemented action to comply with SB-7 Governors Water Reduction of 20% by 2020. Pursuant to the Prop. 84 Grant, implemented water use efficiency and runoff reduction components throughout Newport Beach's Areas of Special Biological |

| | | |
|-----|--|--|
| | | <p>Significance (ASBS) watershed.</p> <ul style="list-style-type: none"> Submitted 2010 Urban Water Management Plan (UWMP) to the Department of Water Resources. |
| 17. | Land Use database refinements and maintenance (Land Use Element) | <p>On-going</p> <p>Maintenance and updates of databases are on-going.</p> |
| 18. | Measure S guidelines regarding variable FAR (Land Use Element) | <p>Complete</p> <p>Amendments to City Council Policy Manual adopted in August 2009.</p> |
| 19. | Building Code amendments regarding green buildings (Land Use Element) | <p>Ongoing</p> <p>The Task Force on Green Development ended in 2009 and recommendations were made to the City Council to incorporate the following measures as an amendment to the California Green Building Standards Code:</p> <ul style="list-style-type: none"> For residential - energy star designation for all appliances, establish a maximum kitchen faucet flow rate and dishwasher water use, and a minimum efficiency rating value air filter for HVAC equipment. For nonresidential – control storm water runoff quantity and quality, energy star equipment and appliances if available, energy saving controls for buildings with one or more elevators or escalators, reduce water of commercial clothes washer by 10% below CEC standard, and reduce water for commercial dishwashers consistent with the Green building Code. City Council adoption is |

| | | |
|-----|--|---|
| | | anticipated early 2011. |
| 20. | Amend City Council Policies on historic, archaeological and paleological resources (Historical Resources Element) | <i>Not Started</i> |
| 21. | Funding and priority program for construction of noise barriers along arterials (Noise Element) | <i>Not started</i> |
| 22. | Annual Review of CIP to determine consistency with the General Plan and Coastal Land Use Plan (Land Use Element) | <i>Ongoing</i> On June 3, 2010, staff presented CIP for fiscal year 2010-2011 to the Planning Commission for review. The Planning Commission provided comment and the CIP was included with the CIP budget presentation to the City Council. |
| 23. | Emergency Preparedness (Safety Element) | <i>Ongoing</i> <ul style="list-style-type: none"> ▪ The City's comprehensive Emergency Management Plan (EMP) was updated. The EMP is a legal document required by the California Emergency Management Agency (Cal EMA). The last update was in 2004. The EMP had to be completely revised due to the creation of the National Incident Management System (NIMS) and many changes at the federal, state, and local level. The updated Plan will be sent to the State for approval in February 2011, and then to the City Council for final approval. ▪ On October 28, 2010, the annual City-wide Emergency Operations Center (EOC) drill was held. At the request of city management, a "back to basics" approach was taken due to the large number of new EOC staff. |

| | | |
|--|--|--|
| | | <p>The Drill involved 108 city staff members as well as many Community Emergency Response Team (CERT), Volunteers in Police Service (VIPs) and Radio Amateur Civil Emergency Service (RACES) volunteers. A critique was conducted at the end of the drill and a Corrective Action Plan was created to address any problems or suggestions.</p> <ul style="list-style-type: none"> • The County proclaimed a "Local Emergency" on behalf of all cities in Orange County, which prompted the State to proclaim a "State of Emergency" due to flooding from heavy rains and the City was able to seek 75% reimbursement for all costs related to the storm damage. The storm damage reimbursement allowed the Fire Department to replace the main roof at Lifeguard Headquarters and to repair several fire stations. To date, the City has applied for \$183,902 from the State to reimburse the City's General Fund for expenses incurred by the January, 2010, Winter storms. |
|--|--|--|

B. GENERAL PLAN POLICY IMPLEMENTATION TASKS NOT INCLUDED ON THE GP/LCP TASK LIST

| TASKS | | STATUS |
|-------|--|--|
| 1. | Priority for Facility Provision Parks and Recreation (Recreation Element) | <p>Ongoing</p> <ul style="list-style-type: none"> ▪ Sunset Ridge Park - Currently working on obtaining all necessary permits including California Coastal Commission (CCC) and construction is anticipated to begin Fall |

| | | |
|----|--|---|
| | | <p>2011.</p> <ul style="list-style-type: none"> ▪ Banning Ranch - draft plans include 52 acres of park and open space areas. The draft EIR is anticipated to be circulated in Spring 2011. |
| 2. | Alternative Transportation Modes (Circulation Element) | <p>Ongoing</p> <p>Task Force on Cycling Safety made the following recommendations in a final report to City Council on May 11, 2010:</p> <ul style="list-style-type: none"> ▪ Education and Outreach - update the City's bicycle trails map, disseminate bicycle safety information, increase participation and coordination with schools, update the City's master bike plan, and host coordination meetings with the Police Department and bicycle advocates. ▪ Road Improvements - install improved signage, develop a sharrows program and guidelines, implement a sharrow demonstration project, and identify areas where auto traffic and bike traffic coordination could be improved. ▪ Encouraging Cycling - develop a City bike rack policy, including design guidelines, promote a "Day without Cars" campaign with coordination with Bike to Work Week, and create a permanent city bicycle committee. ▪ Pursuant to City Council guidance, based on these recommendations, a permanent bicycle committee was established in late 2010 to implement these recommendations. |

| | | |
|----|--|--|
| 3. | <p>Provide a pedestrian-oriented village environment that reflects its waterfront location, providing a mix of uses that serves visitors and local residents in Lido Village. (Land Use Element)</p> | <p>Lido Marina Village Conceptual Plan:</p> <ul style="list-style-type: none">▪ On July 27, 2010, the City Council designated an ad hoc committee consisting of Mayor Curry and Council Members Henn and Rosansky to participate in a conceptual planning process to analyze potential land use alternatives for the City Hall site, Lido Marina Village and Via Lido Plaza.▪ The ad hoc committee along with representatives of Lido Marina Village and Via Lido Plaza retained a consultant and a design team from a competitive selection process to manage the overall effort and to develop the conceptual plans.▪ A City Council Study Session was held on November 23, 2010, where two alternatives will be presented during the study session and these two alternatives are considered 90% complete. The design team received input from the City Council and the public to refine the concept plans.▪ A public outreach meeting is scheduled for January 11, 2011, and a final presentation of the full study is planned to go to the City Council on January 25, 2011. |
|----|--|--|



CITY OF NEWPORT BEACH

GENERAL PLAN ANNUAL PROGRESS REPORT

Housing Element Report

2010 Calendar Year

As required by Government Code Sections 65583 and 65584, the Housing Element Report demonstrates the City's progress in meeting its share of regional housing needs and Housing Element programs. As mandated by Government Code Section 65400, this report was prepared consistent with guidelines provided by the Department of Housing and Community Development (HCD).

The Housing Element report includes the following information:

- A. annual building activity reports for new housing units;
- B. regional housing needs allocation progress; and
- C. program implementation status including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing.

A. Annual Building Activity Reports for New Housing Units

Data from the Newport Beach Building Department "Building Activity Report" was used to prepare the following table, illustrating the number of permits issued for construction of new housing units and for demolished housing units in calendar year 2010:

| PERMITS ISSUED FOR HOUSING UNITS | | | |
|---|------------------|-------------------------|------------------------------|
| 2010 | | | |
| CALENDAR YEAR | NEW UNITS | DEMOLISHED UNITS | NET INCREASE IN UNITS |
| 2010 | 63 | 65 | -2 |

| ANNUAL BUILDING ACTIVITY REPORT FOR MODERATE INCOME UNITS 2010 | | | | | | | |
|---|---------------------------------|---|----------------------------|-------------------------------|--------------------------------|---------------------|--------------------------------|
| | 1. SINGLE FAMILY | 2. 2-4 UNITS | 3. 5+ UNITS | 4. SECOND UNIT | 5. MOBILE HOMES | 6. TOTAL | 7. INFILL UNITS |
| NO. OF UNITS PERMITTED FOR MODERATE | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| NO. OF UNITS PERMITTED FOR ABOVE MODERATE | 51 | 6 (2-UNIT PROJECTS) = 12 TOTAL UNITS | 0 | 0 | 0 | 0 | 63 |

B. REGIONAL HOUSING NEEDS ALLOCATION PROGRESS

The Southern California Association of Governments (SCAG) prepared a Regional Housing Needs Allocation (RHNA) to identify the housing needs for each jurisdiction within the SCAG region. SCAG, through the RHNA process, assigned Newport Beach a share of the region's new housing units that should be constructed in the 2006-2014 planning period to satisfy housing needs resulting from projected growth in the region. To accommodate projected growth in the region, SCAG determined the City's share of RHNA to be 1,769 new dwelling units.

The Draft Housing Element (Draft No. 3) was re-submitted to HCD for their review and certification on February 11, 2011. Draft No. 3 addressed HCD required changes and recommendations that were provided on previous Draft No. 2.

The table, below, summarizes the City's share of RHNA for new housing construction, for households at different income levels, for the 2006-2014 Planning Period. Pursuant to HCD guidelines, it includes a carryover of the unaccommodated portion of the 2000-2005 RHNA allocation of 145 units.

| TOTAL RHNA CONSTRUCTION NEED BY INCOME 2006-2014 | | | | |
|---|------------|-----------------|-----------------------|--------------|
| VERY LOW | LOW | MODERATE | ABOVE MODERATE | TOTAL |
| 451 | 319 | 442 | 702 | 1,914 |
| 24% | 17% | 23% | 36% | 100% |

| CITY'S PROGRESS IN MEETING IT'S SHARE OF THE REGIONAL HOUSING NEEDS ASSESSMENT DURING RHNA PERIOD 2006-2014 | | | | | |
|--|-------------|------------|------------|-------------------|--------------|
| | VERY Low | Low | MODERATE | ABOVE MODERATE | TOTAL |
| PROJECTED NEED | 451 | 319 | 442 | 702 | 1,914 |
| NEW UNITS PERMITTED (06-07) | 0 | 0 | 0 | 18 | 18 |
| NEW UNITS PERMITTED (07-08) | 0 | 0 | 0 | 10 | 10 |
| NEW UNITS PERMITTED (08-09) | 0 | 0 | 0 | 6 | 6 |
| NEW UNITS PERMITTED (09-10) | 0 | 0 | 0 | 0 | 0 |
| REMAINING NEED | 451 | 319 | 442 | 668 | 1,880 |

C. PROGRAM IMPLEMENTATION STATUS/ LOCAL EFFORTS TO REMOVE GOVERNMENTAL CONSTRAINTS

| PROGRAM | GOAL | STATUS |
|---------|--|---|
| 1.1.1 | Improve housing quality and prevent deterioration of existing neighborhoods by strictly enforcing building code regulations and abating code violations and nuisances. | <i>On-going</i> A quarterly report on code enforcement activities is available and kept on file at the City. |
| 1.1.2 | Participate with the Orange County Housing Authority (OCHA) and Housing and Community Development Division in their administration of rehabilitation loans and grants for low- and moderate-income homeowners and rental property owners to encourage preservation of existing City housing stock. | <i>On-going</i> City staff attends OCHA's Cities Advisory Committee meetings to keep up to date on rehabilitation programs offered by the County in order to inform homeowners and rental property owners within the City of opportunities and to encourage preservation of existing housing stock. |
| 1.1.3 | Require replacement of housing demolished within the Coastal Zone when housing is or has been occupied by very-low, low-, and moderate-income households within the preceding 12 months. The City shall prohibit demolition unless a Coastal Residential Development (CRDP) Permit has been issued. The specific provisions implementing | <i>On-going</i> The City uses Chapter 20.34 "Conversion or Demolition of Affordable Housing" to implement this program. No CRDPs were issued in 2010. |

| | replacement unit requirements are contained in the Zoning Code. | |
|---------|--|---|
| PROGRAM | GOAL | STATUS |
| 2.1.1 | Maintain rental opportunities by restricting conversions of rental units to condominiums unless the vacancy rate in Newport Beach for rental housing is an average 5 percent or higher for four (4) consecutive quarters, and unless the property owner complies with condominium conversion regulations contained in Chapter 19.64 of the Newport Beach Municipal Code. | <i>On-going</i> A vacancy rate survey is completed every quarter to monitor consistency with this policy. The results of the surveys conducted for the 2010 calendar year provided an average vacancy rate higher than 5 percent therefore, conversions are not restricted. |
| 2.1.2 | Take all feasible actions, through use of development agreements, expedited development review, and expedited processing of grading, building and other development permits, to ensure expedient construction and occupancy for projects approved with low- and moderate-income housing requirements. | <i>On-going</i> No applications for construction of affordable housing were submitted. |
| 2.1.3 | Participate with the County of Orange in the issuance of tax-exempt mortgage revenue bonds to facilitate and assist in financing, development and construction of housing affordable to low and moderate-income households. | <i>On-Going</i> The issuance of tax-exempt mortgage revenue bonds is project driven, and the developer typically applies for the bonds. No applications were received. |
| 2.1.4 | Conduct an annual compliance-monitoring program for units required to be occupied by very low-, low-, and moderate-income households. | <i>On-Going</i> Annual compliance monitoring report for the City's income and rent restricted units was completed in November 2010 with follow-up continuing through early 2011 for one out of compliance affordable housing project. |
| 2.2.1 | Require a proportion of affordable housing in new residential developments or levy an in-lieu fee. The City's goal over the five-year planning period is for an | <i>On-going</i> No projects were approved. |

| | | |
|-------|--|--|
| | <p>average of 15 percent of all new housing units to be affordable to very low-, low-, and moderate-income households. The City shall either (a) require the payment of an in-lieu fee, or (b) require the preparation of an Affordable Housing Implementation Plan (AHIP) that specifies how the development will meet the City's affordable housing goal, depending on the following criteria for project size:</p> <ol style="list-style-type: none"> 1. Projects of 50 or fewer units shall have the option of preparing an AHIP or paying the in-lieu fee. 2. Projects where more than 50 units are proposed shall be required to prepare an AHIP. Implementation of this program will occur in conjunction with City approval of any residential discretionary permits or Tentative Tract Maps. To insure compliance with the 15 percent affordability requirements, the City will include conditions in the approval of discretionary permits and Tentative Tract Maps to require ongoing monitoring of those projects. | <p>On May 11, 2010, the City Council adopted Ordinance No. 2010-9 adding a new chapter to the City's Subdivision Code implementing Housing Program 2.2.1 of the Housing Element. The Chapter provides the specific requirements necessary to implement the Housing Program. The Inclusionary Housing Chapter requires developers of residential subdivisions to facilitate production of affordable units in numbers equal to 15 percent of the number of for-sale market rate units produced. Affordable, for-sale units will be required to be sold at prices affordable for moderate-income households. If a subdivision developer chooses to provide affordable rental units, the rate shall be affordable to very-low or low-income households. In all cases, the affordable units shall be legally restricted to occupancy by, and affordable to, households of the income levels for which the affordable units were designated for a minimum duration of 30 years.</p> |
| 2.2.2 | <p>The City shall provide more assistance for projects that provide a higher number of affordable units or a greater level of affordability. At least 15 percent of units shall be affordable when assistance is provided from Community Development Block Grant funds or the City's in-lieu housing fund.</p> | <p><i>On-going</i></p> <p>No projects providing greater than the required affordability component were proposed.</p> |
| 2.2.3 | <p>For new developments proposed in the Coastal Zone areas of the City, the City shall follow Government Code Section 65590 and Title 20.</p> | <p><i>On-going</i></p> <p>See status of Program 1.1.3.</p> |
| 2.2.4 | <p>All required affordable units shall have restrictions to maintain their affordability for a minimum of 30 years.</p> | <p><i>On-going</i></p> <p>No new affordable units were approved.</p> |

| | | |
|-------|---|---|
| 2.2.5 | Advise existing landowners and prospective developers of affordable housing development opportunities available within the Banning Ranch, Airport Area, Newport Center, Mariners' Mile, West Newport, and Balboa Peninsula areas. | <p><i>On-going</i></p> <p>City staff has been discussing affordable housing development opportunities with the applicants on the Banning Ranch, Koll and Conexant projects and with other potential affordable housing developers. As part of the Master Plan Development of Banning Ranch and the Plans for Koll and Conexant, an AHIP will be prepared to address affordable housing requirements.</p> |
| 2.2.6 | Periodically contact known local developers and landowners to solicit new affordable housing construction. | <p><i>On-going</i></p> <p>The City Manager's Office and Economic Development Division periodically discuss the construction of new affordable housing with local developers and landowners.</p> <p>City staff introduces the idea of constructing affordable housing to developers who propose large residential projects and discuss density bonuses to assist in the construction of affordable housing.</p> |
| 2.2.7 | Participate in other housing assistance programs that assist production of housing. | <p><i>On-going</i></p> <p>City staff attends OCHA Cities Advisory Committee meetings to keep up-to-date with programs that assist in the production of housing.</p> <p>Staff informs developers of programs that are available to assist in the production of housing for all income levels.</p> |
| 2.2.8 | New developments which provide housing for lower income households that help meet regional needs shall have priority for the provision of available and | <p><i>On-going</i></p> <p>The City has provided a copy of the Housing Element to water</p> |

| | | |
|-------|--|--|
| | future resources or services, including water and sewer supply and services. | and sewer service providers. Pursuant to state law, water and sewer providers must grant priority to developments that include housing units affordable to lower income households. |
| 2.3.1 | Study housing impacts of proposed major commercial/industrial projects during the development review process. Prior to project approval, a housing impact assessment shall be developed by the City with the active involvement of the developer. Such assessment shall indicate the magnitude of jobs to be created by the project, where housing opportunities are expected to be available, and what measures (public and private) are requisite, if any, to ensure an adequate supply of housing for the projected labor force of the project and for any restrictions on development due to the "Charter Section 423" initiative. | <p><i>On-going</i></p> <p>Staff will consider developing housing impact fees for all new commercial and industrial developments as an additional or alternative resource for providing affordable housing.</p> <p>Staff monitors all new planning applications for applicability.</p> |

| PROGRAM | GOAL | STATUS |
|---------|---|---|
| 3.1.1 | Provide a streamlined "fast-track" development review process for proposed affordable housing developments. | <p><i>On-going</i></p> <p>The City considers "fast track" development review incentives on a project-by- project basis.</p> |
| 3.1.2 | When a residential developer agrees to construct housing for persons and families of very low, low and moderate income above mandated requirements, the City shall either (1) grant a density bonus as required by state law, or (2) provide other incentives of equivalent financial value. | <p><i>On-going</i></p> <p>The City considers density bonuses and other incentives on a project-by-project basis. Chapter 20.32 Density Bonus is now included in the Zoning Code.</p> |
| 3.1.3 | Review and consider in accordance with state law, the waiver of planning and park fees, and modification of development standards, (e.g., setbacks, lot coverage, etc.) at the discretion of City Council and Planning Commission for developments containing very low, low- and moderate-income housing in proportion to the | <p><i>On-going</i></p> <p>Waivers and incentives are considered by the Planning Commission and City Council on a project-by-project basis. There were no projects during the 2010 calendar year.</p> |

| | | |
|-------|--|--|
| | number of low- and moderate-income units in each entire project. | |
| 3.2.1 | Identify the following sites as adequate, which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage development of a variety of housing types to meet City housing goals as identified pursuant to Government Code Section 65583(b): Banning Ranch, Airport Area, Newport Center, Mariners' Mile, and the Balboa Peninsula areas. | <p>Ongoing</p> <p>The City completed the comprehensive Zoning Code Update, which reflects changes to facilitate the development of the identified sites:</p> <ul style="list-style-type: none"> ▪ A conceptual development plan has been prepared for future residential development on the Koll and Conexant properties in the Airport Area and both property owners have submitted applications for zoning documents however, per the applicants request the projects were placed on-hold. ▪ Banning Ranch application includes the development of a Planned Community Development Text. The draft EIR is anticipated to be circulated in spring 2011 and City Council approved the water supply assessment in October, 2010, concluding that there will be adequate water supplies to meet the demands of the Banning Ranch project. |
| 3.2.2 | Update Zoning Code to reflect housing opportunities provided in the Land Use Element. | <p>Complete</p> <p>City Council adopted the comprehensive Zoning Code Update on October 26, 2010 which reflects new housing opportunities created by the 2006 General Plan Update.</p> |
| 3.2.3 | When requested by property owners, the City shall approve rezoning of developed or vacant property from non-residential to | <p>On-going</p> <p>No applications to rezone land</p> |

| | | |
|--|--|--|
| | residential uses when appropriate. These rezoned properties shall be added to the list of sites for residential development. | for residential use, other than those noted in 3.2.1, were received. |
|--|--|--|

| PROGRAM | GOAL | STATUS |
|---------|---|---|
| 4.1.1 | Periodically contact owners of affordable units for those developments listed in Table H12 to obtain information regarding their plans for continuing affordability on their properties. | <p>On-going</p> <p>Staff maintains an updated contact list for affordable units in conjunction with the 2008 Housing Element Update.</p> |
| 4.1.2 | Consult with the property owners regarding utilizing CDBG funds and in-lieu housing funds to maintain affordable housing opportunities in those developments listed in Table H12. | <p>On-going</p> <ul style="list-style-type: none"> ▪ Affordability covenants expired for Baywood Apartments (Villa Point I) and Newport North Apartments (Villa Point II), despite staff efforts to extend these covenants. ▪ The City entered into an affordable housing agreement with Seaview Lutheran Plaza in late 2009 to extend the affordability covenant an additional 30 years in exchange for \$135,000 in affordable housing in-lieu funds to replace the deteriorated water distribution system. In 2010 the parties amended the agreement providing additional funds to replace the property's single check valve backflow device with a code approved device and thus continue in our efforts to maintain these 100 affordable units. |
| 4.1.3 | Prepare written communication for tenants and other interested parties about Orange County Housing Authority Section 8 opportunities to assist tenants and prospective tenants to acquire additional understanding of housing law | <p>On-going</p> <p>Pamphlets informing prospective tenants and landlords about the OCHA Section 8 program have been</p> |

| | | |
|-------|--|--|
| | and related policy issues. | made available in the public lobby and information is posted on the City website. |
| 4.1.4 | Investigate availability of federal, state, and local programs (including in-lieu funds) and pursue these programs if found feasible, for the preservation of existing low-income housing, especially for preservation of low-income housing that may increase to market rates during the next ten years. A list of these programs, including sources and funding amounts, will be identified as part of this program and maintained on an on-going basis. | <p><i>On-going</i></p> <p>The City has continued to investigate available programs and evaluate the feasibility of participating in such programs.</p> |
| 4.2.1 | Investigate the use of federal funds to provide technical and financial assistance, if necessary, to all eligible homeowners and residential rental property owners to rehabilitate existing dwelling units through low-interest loans or potential loans, or grants to very low-, low- and moderate-income, owner-occupants of residential properties to rehabilitate existing units. | <p><i>On-going</i></p> <p>The City investigates available programs and evaluates the feasibility of participating in such programs.</p> <ul style="list-style-type: none"> ▪ City Council approved the Utility Connection Grant Program guidelines in order to provide utility hook-up assistance to low-income households in Newport Beach utility undergrounding Assessment Districts. The grant program was allocated \$65,922 in CDBG funds in the 2010-2011 fiscal year. The City expects to give grants to 3 homeowners prior to the end of the 2010-2011 fiscal year. |
| 4.2.2 | In accordance with Government Code Section 65863.7, require a relocation impact report as a prerequisite for the closure or conversion of an existing mobile home park. | <p><i>On-going</i></p> <p>Consistent with state law, a detailed relocation impact report is a requirement for the permit for proposed closures or conversions. There were no closures or conversions in 2010.</p> |

| | | |
|-------|---|--|
| 4.2.3 | Should need arise, consider using a portion of its Community Development Block Grant funds for establishment and implementation of an emergency home repair program. Energy efficient products shall be required whenever appropriate. | <i>On-going</i> A need for this program has not been demonstrated. |
| 4.2.4 | Participate as a member of the Orange County Housing Authority Advisory Committee and work in cooperation with the Orange County Housing Authority to provide Section 8 Rental Housing Assistance to residents of the community. The City shall, in cooperation with the Housing Authority, recommend and request use of modified fair market rent limits to increase number of housing units within the City that will be eligible to participate in the program. The Newport Beach Planning Department shall prepare and implement a publicity program to educate and encourage landlords within the City to rent their units to Section 8 Certificate holders and to make very low-income households aware of availability of the Section 8 Rental Housing Assistance Program. | <i>On-going</i> Staff attends the quarterly meetings of the OCHA Cities Advisory Committee. Staff continually works in cooperation with the County to provide Section 8 rental housing assistance to residents. A link to the Orange County Housing Authority website has been placed on the City website to provide information on the Section 8 program. |

| PROGRAM | GOAL | STATUS |
|---------|---|---|
| 5.1.1 | Apply for United States Department of Urban Development Community Development Block Grant funds and allocate a portion of such funds to sub-recipients who provide shelter and other services for the homeless. | <i>On-going</i> Through the approved Action Plans for Fiscal year 2010-2011, the City provided funding to the following organizations to preserve the supply of emergency and transitional housing: Human Options, Families Forward, Serving People In Need (SPIN), and Fair Housing Council of Orange County. The following organization has been funded to assist homeless battered women and children: Human Options. |
| 5.1.2 | Cooperate with the Orange County | <i>On-going</i> |

| | | |
|-------|--|--|
| | Housing Authority to pursue establishment of a Senior/Disabled or Limited Income Repair Loan and Grant Program to underwrite all or part of the cost of necessary housing modifications and repairs. Cooperation with the Orange County Housing Authority will include continuing City of Newport Beach participation in the Orange County Continuum of Care and continuing to provide CDBG funding. | The City refers low income residents to Orange County for rehabilitation of mobile homes, to Neighborhood Housing for first time buyer programs, and to Rebuilding Together for handyman service for low income and senior households. |
| 5.1.3 | Permit, where appropriate, development of "granny" units in single-family areas of the City. | <i>On-going</i> No permits were requested or issued in 2010. |
| 5.1.4 | Consistent with development standards in residential and commercial areas, permit emergency shelters and transitional housing under group housing provisions in its Zoning Code. | <i>On-going</i> Emergency shelters are permitted in the OA and PI Zones without the requirement of a use permit. This was provided for with the Zoning Code Update completed in October 2010. |
| 5.1.5 | Work with the City of Santa Ana to provide recommendations for the allocation of HUD Housing Opportunities for Persons with AIDS (HOPWA) funds within Orange County. | <i>On-going</i> The City attended the annual HOPWA Strategy meeting and participated in providing recommendations for the allocations of HOPWA funds. |
| 5.1.6 | Maintain a list of "Public and Private Resources Available for Housing and Community Development Activities." | <i>On-going</i> City maintains a list of resources that are available for housing and community development activities. A list of resources and links are provided on the City's website. |

| PROGRAM | GOAL | STATUS |
|---------|--|---|
| 6.1.1 | Contract with an appropriate fair housing service agency for the provision of fair housing services for Newport Beach residents. The City will also work with the fair housing service agency to assist with | <i>On-going</i> The City contracted with the OC Fair Housing Council to provide these services in 2009-10 and |

| | | |
|-------|---|--|
| | the periodic update of the Analysis of Impediments to Fair Housing document required by HUD. The City will continue to provide pamphlets containing information related to fair housing at the Planning Department counter. | <p>2010-11.</p> <p>The City provided information to the Fair Housing Council of Orange County to complete the Regional Fair Housing Impediments Analysis in 2010. Approval by Council is anticipated in April 2011.</p> <p>Pamphlets containing information of Fair Housing and Dispute Resolution Services are available at the public counter.</p> |
| 6.1.2 | Support fair housing opportunities by using Community Development Block Grant funds whenever necessary to enact federal, state, and City fair housing policies. | <p><i>On-going</i></p> <p>In 2010-2011, the City allocated \$11,185 in CDBG funding to the Fair Housing Council of Orange County to assist the City in furthering fair housing through education, landlord/tenant counseling, and legal action when necessary.</p> |

| PROGRAM | GOAL | STATUS |
|---------|--|--|
| 7.1.1 | As part of its annual General Plan Review, the City shall report on the status of all housing programs. The portion of the Annual Report discussing Housing Programs is to be distributed to the California Department of Housing and Community Development in accordance with California State Law. | <p><i>On-going</i></p> <p>This annual Housing Element Progress Report will be submitted to HCD.</p> |

CITY OF NEWPORT BEACH

STAFF REPORT

March 3, 2011 Hearing

Agenda Item 3

SUBJECT: Jamboree Chevron - (PA2008-165)
1550 Jamboree Road
▪ Use Permit No. UP2008-051

APPLICANT: Terrible Herbst, (Steven Dahlberg, SDA Partnership USA, Architech)

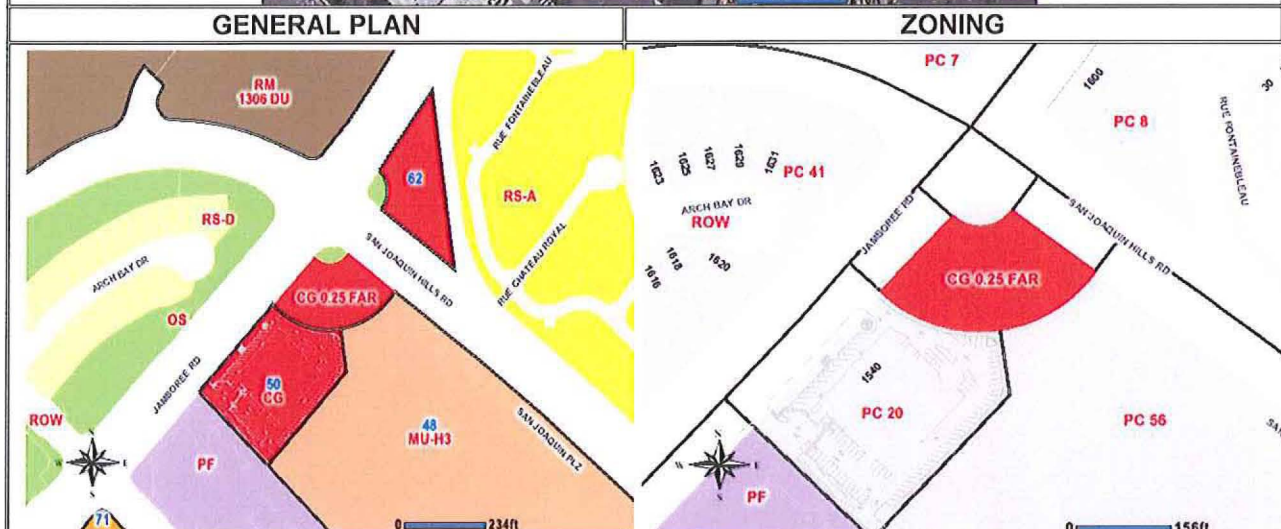
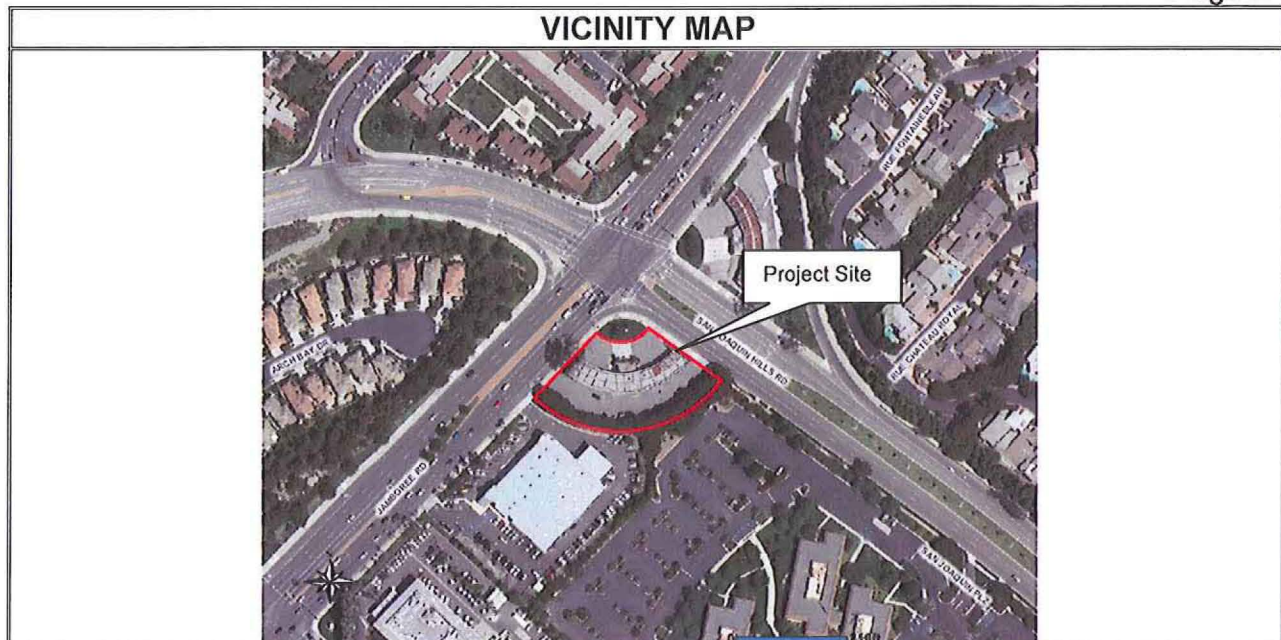
PLANNER: Kay Sims, Assistant Planner
(949) 644-3237, ksims@newportbeachca.gov

PROJECT SUMMARY

The application consists of a conditional use permit to allow the following design and operation changes to an existing service station: demolition of three, unused service bays to increase the floor area of the existing convenience market; introduction of off-site beer and wine sales (Type 20); the addition of an automated car wash; removal of an existing office/storage building and trash enclosure; construction of a new trash enclosure; the addition of landscaping areas; and related interior and exterior improvements. The application also includes a modification or waiver of the landscaping standards of the Zoning Code to allow fewer trees and shrubs than required.

RECOMMENDATION

1. Conduct a public hearing, and
2. Adopt Resolution No. ____approving Use Permit No. UP2008-051 (Attachment No. PC 1).



| LOCATION | GENERAL PLAN | ZONING | CURRENT USE |
|----------|---|---|--|
| ON-SITE | General Commercial (CG) | Commercial General (CG) | Chevron Service Station |
| NORTH | Multiple-Use Residential (RM 1306 DU) | Park Newport Planned Community (PC-7) | Apartments |
| SOUTH | Commercial and Mixed-Use Horizontal (CG and MU-H3) | Land Rover Planned Community & North Newport Center Planned Community (San Joaquin Plaza) (PC-20 and PC-56) | Automobile Sales and Service & Office Complex with Surface Parking Areas |
| EAST | Commercial (CG) and Single-Unit Residential Attached (RS-A) | Big Canyon Planned Community (PC-8) | Shell Service Station and Single-Unit Residential Dwellings, Attached |
| WEST | Single-Unit Residential Detached (RS-D) | Newporter North Planned Community (PC-41) | Single-Unit Residential Dwellings |

INTRODUCTION

Project Setting and Background

The subject site (43,314 square feet in area, 0.99 acres) is located on the southeast corner of the intersection of Jamboree Road and San Joaquin Hills Road. The site is a quarter-circle in shape due to the arc of the rear property line. It is generally flat, slightly higher than street level, and slopes upward along the rear property line on the easterly side, which is adjacent to a large surface parking lot located on the adjacent property. Mature evergreen trees are located along the entire length of the rear property line. A large (2,905 square feet) semi-circular-shaped, landscaped area at the corner of the site is a separate parcel that is a part of the North Newport Center Planned Community (San Joaquin Plaza sub-area).

The Land Rover (Jaguar/Aston Martin) auto dealership is located adjacent to the rear property line facing Jamboree Road. The San Joaquin Hills Plaza office complex is also located adjacent to the rear property line of the subject site, abutting the Land Rover site, facing San Joaquin Hills Road. A Shell service station and residential developments (Big Canyon) are located to the north of San Joaquin Hills Road. Residential developments are located to the west of Jamboree Road (Harbor Cove) and north of San Joaquin Hills Road (Park Newport).

The subject site is currently developed with a Chevron service station, which was permitted in 1970, with approval of UP1496. The service station was constructed prior to the City's adoption of specific development standards for automobile service stations (Ordinance No. 1411, 1972). In most areas, the service station meets or exceeds the development standards required of new service stations. It consists of a service station building (2,449 square feet) and a semi-circular shaped canopy (6,923.8 square feet) covering four fuel service islands, each with four fueling spaces (16 fueling spaces total). A small office/storage building and trash enclosure, located to the rear of the property, were permitted in 1986, with approval of Use Permit No. UP1496A. Eighteen parking spaces are provided facing the landscaped areas adjacent to the rear property line. Vehicular access to the site is provided via four driveways, two adjacent to Jamboree Road and two adjacent to San Joaquin Hills Road. The existing service station building houses a cashier, small convenience market area, three unused auto service bays, an employee break room, a mechanical room, and a storage area. The current hours of operation are 24 hours-a-day, seven-days-a-week. Copies of Use Permit Nos. UP1496 and UP1496A are included as Attachment No. PC 2.

Project Description

The applicant is requesting a conditional use permit to allow a complete interior remodel and expansion of the gross floor area of the existing convenience market into the floor

area of the three, unused service bays, introduction of off-site beer and wine sales (Type 20), and construction of an automated car wash building at the rear of the property. The project also includes removal of the office/storage building and trash enclosure, construction of a new trash enclosure, and new finish materials for the exterior of the service station building. Twelve parking spaces for the convenience market and 5 queuing spaces for the car wash will be provided on the site.

The proposed convenience market will occupy the entire gross floor area of the existing service station building (2,256.4 gross square feet). It will consist of a cashier's booth and office, soft drink fountain and coffee area, cold beverage/pre-packaged food refrigerators, merchandise display racks and two restrooms (male and female). No interior or exterior customer seating is proposed. The current hours of operation (24 hours-a-day, seven-days-a-week) are proposed to remain the same.

The office/storage building and trash enclosure located adjacent to the rear of the property will be removed, and a new trash enclosure will be constructed near the exit of the car wash.

The new car wash building (1,661.2 gross sq ft) will be located in the center of the site at the rear of the property, and will accommodate a maximum of two vehicles at any one time. Vehicles will enter the car wash from the westerly side of the building (Jamboree) and exit on the easterly side. Four vacuuming stations will be located adjacent to the parking spaces, which face the rear of the site to the east of the new trash enclosure. A new 6-foot-high sound-barrier wall will be constructed, beginning at the rear corner on the easterly side of the new trash enclosure, and extending along the rear property line to the end of the vacuuming area. The proposed hours of operation for the car wash are 7:00 a.m. until 10:00 p.m., seven-days-a-week.

DISCUSSION

Analysis

General Plan and Zoning Code

The subject property is located within the General Plan Statistical Area L1 and has a land use designation of General Commercial (CG). The CG designation is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. Gasoline stations, convenience stores, and food service establishments are permitted uses within this land use designation. The General Plan allows a maximum 10,828 gross sq. ft. (.25 FAR) for the site (43,314 sq. ft.). The total gross square feet of the proposed project is consistent with the Land Use Element of the General Plan (proposed convenience market - 2,256 sq. ft, proposed car wash - 1,661.2. sq. ft. = 3,917.2 total sq. ft., .09 FAR).

The subject property is located within the Commercial General (CG) Zoning District. Pursuant to Zoning Code Section 20.20.020.A, Table 2-5 (Allowed Uses and Permit Requirements), fuel/service stations are permitted within this zoning district. Pursuant to Section 20.48.210.A (Service Stations, Allowable uses and activities), the proposed convenience market and automated car wash uses are permitted as accessory uses for the service station. Section 20.48.210.T.1 (Permit and Review Procedures, Conditional Use Permit Required) of the Zoning Code requires approval of a conditional use permit (CUP) for an existing service station whenever a request is made for the introduction of any of the accessory uses allowed for service stations, the introduction of alcoholic beverage sales, or any similar change in the operational characteristics of the service station. Pursuant to Zoning Code Section 20.52.020 (Conditional Use Permits and Minor Use Permits), an application for a CUP is subject to review by the Planning Commission, which may approve or conditionally approve the project if facts are found to make the findings required for approval.

The Zoning Code (Section 20.48.210 - Service Stations) lists prohibited uses and activities and provides standards for the location of activities and operations that are allowed to be conducted outside of the service station building. The proposed service station and car wash operation will be consistent with the permitted activities and operations standards.

Specific design and development standards for service stations are also provided in Section 20.48.210 of the Zoning Code. Each standard, as it relates to the proposed project, is discussed in Tables 1 and 2 (Service Station Design and Development Standards and Landscaping Standards), which are included in Attachment No. PC 3.

Modification or waiver of standards (Section 20.48.210.T.2)

As noted in Tables 1 and 2 (Attachment No. PC 3), the proposed project complies with the design standards listed, with the exception of the landscaping requirement related to the number of trees and shrubs required adjacent to the street property lines. Pursuant to Section 20.48.210.T.2 (Modification or waiver of standards), the Planning Commission may modify or waive any of the design and development standards upon finding that:

- a. *The strict compliance with the standards is not necessary to achieve the purpose and intent of the design standards section.*

- b. The project possesses compensating design and development features that offset impacts associated with the modification or waiver of standards.*
- c. The overall site plan and architectural design is consistent with the City of Newport Beach Design Guidelines: Automobile Service Stations and Washing.*

The existing site provides 10 fewer trees adjacent to the street property lines and one less shrub adjacent to the interior property line than required by the landscaping standards. It is staff's recommendation that deviation from the required landscaping standards is justified for the following reasons:

- A greater number of trees and shrubs are provided throughout the site than are required (27 trees required, 33 trees provided; 78 shrubs required, 194 shrubs provided).

The shape of the site and the design and location of the existing service station and proposed car wash are unique to this location. The location, number, and maturity of the existing trees, shrubs, and landscaped areas enhance the overall visual quality of the site. The mature trees adjacent to the semi-circular rear property line provide a buffer from the service operation to the adjacent land uses.

- Although not a part of the subject site, the landscaped area at the corner of Jamboree Road and San Joaquin Hills Road, enhances the overall service station site, and provides a buffer to screen the service station operation.
- Increases to the landscaped areas and plantings adjacent to the service station building are proposed, and additional landscaped areas will be planted adjacent to the proposed car wash building.
- As stated in the discussion above, the overall site plan and architectural design of the existing service station and purposed car wash operation is consistent with the *City of Newport Beach Design Guidelines: Automobile Service Stations and Washing* (see discussion below).

City of Newport Beach Design Guidelines: Automobile Service Stations and Washing

Zoning Code Section 20.48.210.M (Site and architectural design) requires that service station developments be consistent with the *City of Newport Beach Design Guidelines: Automobile Service Stations and Washing* (Guidelines). The Guidelines, adopted May 24, 1999, are not regulatory and are intended to provide assistance in achieving a quality design that enhances the proposed development and that will be compatible with adjacent development and land uses.

The existing service station is consistent with the site design criteria stated in the Guidelines (Attachment No. PC 4). A summary of the existing and proposed elements of the project, as they relate to the Guidelines, is provided below.

Site Design, Architectural Design, and Details:

Although the large landscaped area at the corner of the site is not part of the subject property, the appearance of the landscaped area provides the strong street corner landscape element that the Guidelines encourage. The existing semi-circular design of the canopies on either side of the service station building, provides separate service islands/canopies rather than a single large service island/canopy. The new car wash building will be located at the rear of the site. The openings of the car wash are not oriented toward the street and it has been designed to minimize any potential visual and noise impacts to the adjacent land uses.

The architectural design of the existing service station is unique to the site and community and is not a typical corporate or franchise design. The new exterior finishes proposed for the existing service station will be consistent with the new car wash building, new trash enclosure, and sound wall and will include stucco, stacked stone, tinted glass, and limited areas of painted surfaces. The new trash enclosure will be located to the rear of the property to minimize it's visibility to the public. The existing fuel tank vents (EVR) will be screened and painted to blend in with the new exterior finishes of the existing service station, or will be moved to the rear of the property, screened by landscaping and painted to match the landscaping. Glare is minimized from the recessed fixtures in the fueling station canopy. The exterior lighting throughout the site is designed to avoid glare and light is concealed and directed away from adjacent properties.

Access and Circulation:

Two driveways, for entering and exiting the service station, are located along Jamboree Road and two along San Joaquin Hills Road. The driveways provide good on-site circulation. The existing drive aisles are wide and allow easy maneuverability throughout the site, and provide sufficient on-site space for fuel delivery trucks so as not to disrupt circulation during deliveries. The design and location of the proposed new car wash at the rear of the property will not interfere with the service station convenience store and fueling operation. The access and circulation have been reviewed and approved by the City Traffic Engineer.

Landscaping:

The existing trees, shrubs, and grassy areas on the site are fully established and mature. They enhance the overall appearance of the service station and provide a buffer to the properties adjacent to the semi-circular rear property line. Areas of green grass and decorative plantings are also provided along the street frontages. New planting areas adjacent to the existing service station and the proposed car wash will also be provided to enhance the appearance of the existing and proposed buildings.

Signs:

The existing signs on the site were updated in 2009, and were consistent with the applicable regulations in effect at that time. A condition of approval is included in the draft resolution, which requires new signs or changes to existing signs to comply with the sign regulations required in Section 20.42.080.K.3 (Service station signs) and Section 20.42.120 (Comprehensive Sign Program) of the Zoning Code.

Crime Prevention:

The proposed floor plan for the expanded convenience market is designed to be entirely open and visible to the cashier and employees. The exterior areas of the property are adequately lighted to provide security on the site. A condition of approval is included in the draft resolution, which requires that a security program related to alcohol sales be approved by the Newport Beach Police Department, if required.

Traffic

The Traffic Division of the Public Works Department does not anticipate that the project will cause a net increase in traffic based on ITE Trip Generation (7th Edition) Rates, and a Traffic Phasing Ordinance (TPO) study is not required. Trip generation rates for fuel/service stations are based upon the number of fueling stations located on the site. The proposed project does not include adding new fueling stations. The average daily trip (ADT) total of the fuel/service station, with the convenience market is 2,604. The proposed addition of the car wash will result in a total of 2,445 ADT, which is an overall reduction of ADT (-159). Calculations of the trip generation rates are included as Attachment No. PC 8.

Noise Ordinance – Car Wash

A noise study was conducted by Mestre Greve Associates (Attachment No. PC 6) to determine if the proposed car wash operation (car wash and vacuuming stations) will comply with the City's Noise Ordinance. Since the original application proposed a 24-hour-operation, the study included noise measurements taken during the day-time and night-time hours. Five locations, which included both residential and commercial sites within the area of the subject property, were selected. Because the study found that the ambient noise levels exceed the City's noise standards at some of the locations, the higher ambient noise levels at those locations were used to compare the projected noise levels. The Noise Ordinance states that when the ambient noise levels exceed the standard, the ambient noise level becomes the standard.

The results of the study were that the projected ambient day and night-time noise standards for some of the locations would be exceeded with the car wash operation as proposed. The following modifications to the project were recommended and were incorporated into the design: changing the type of car wash system used, relocation of the car wash blowers further away from the car wash exit, and addition of a 6-foot-high-sound-barrier-wall extending along the rear property line from the new trash enclosure (east of the car wash exit) to the end of the vacuuming stations. A condition of approval is included in the draft resolution that requires the sound-barrier wall to be designed pursuant to specifications stated in the noise study recommendations. The final results of the study, which incorporated the recommended modifications, determined that the vacuuming stations would exceed the night-time Noise Ordinance standards (10:00 p.m. to 7:00 a.m.) at the adjacent Land Rover parking lot study location. Although the Land Rover auto dealership is closed during the night-time hours, a condition of approval is included to limit the hours of operation of the car wash to between 7:00 a.m. until 10:00 p.m. to comply with the noise ordinance.

Alcoholic Beverage Sales – Off Site

The applicant has requested approval to include off-site beer and wine sales (Type 20 license). The Police Department has prepared an Alcohol Related Statistics report for the project site (Attachment No. PC 7). The data from the Alcohol Related Statistics Report is incorporated into the factors for consideration provided below.

Factors to Consider

Section 20.48.030 (Alcohol Sales) requires the Planning Commission to consider certain factors when making the required findings to approve the Conditional Use Permit. A discussion of these factors in support of the Conditional Use Permit is provided below.

1. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City*

(2009 Data)

| Reporting District | Part One Crimes (Serious offenses) | Part Two Crimes (All other offenses) | Part One Crimes Rate (per 100,000 people) |
|--------------------|---------------------------------------|---|---|
| RD No. 39 | 242 | 159 | 26,449.28 |
| RD No. 44 | 143 | 146 | 2,426.52 |
| RD No. 43 | 23 | 17 | 2,046.86 |
| Newport Beach | 2,884 | 3,350 | 3,297.31 |

The establishment is located within Reporting District 39, which includes Fashion Island. The Part One Crimes Rate in Reporting District 39 (RD 39) is higher than the Part One Crimes Rate for the City and adjacent districts (for a map of the City of Newport Beach Reporting Districts, see Attachment No. PC 7). The crime rate in this reporting district is 184.57 percent above the City wide reporting district average. The higher crime rate within this reporting district is largely due to the number of visitors to the Fashion Island Regional Shopping Center, the high concentration of alcohol licenses, and high ratio of non-residential to residential uses in the area. While the proposed establishment is located in an area which has a very high concentration of alcohol licenses, staff feels it is appropriate to allow the proposed off-site sale of beer and wine as a part of the products offered by the convenience market located within the existing service station.

2. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and the adjacent reporting districts.*

| Reporting District | DUI/Drunk Arrests | Total Arrests | Calls for Service |
|--------------------|-------------------|---------------|-------------------|
| RD No. 39 | 60 | 234 | 5,213 |
| RD No. 44 | 80 | 208 | 4,661 |
| RD No. 43 | 6 | 15 | 2,046.86 |
| Newport Beach | 1,270 | 3,595 | 69,294 |

RD 39 has a higher number of Total Arrests, and Calls for service recorded in 2008 compared to the adjacent reporting districts. These are related primarily to the large number of restaurants, alcohol service outlets, and visitor accommodations located within the Fashion Island, Newport Center, and Corona del Mar Plaza. No calls for service and no arrests were made related to the subject site

3. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

Residential properties are located more than 400 feet across Jamboree Road to the southwest, 220 feet across Jamboree Road and San Joaquin Hills Road to the northeast, and 320 feet to the northeast of the subject site. The proposed use is separated from nearby residences due to its location at the southeast corner of the intersection of Jamboree Road and San Joaquin Hills Road. The nearest recreational facilities are located within the neighboring residential developments. The project site is not located in close proximity to any churches, daycare centers or schools. The proposed use is located adjacent to other commercial uses.

The area in general is characterized by a high volume of traffic to the site from residents and visitors traveling along Jamboree and San Joaquin Hills Roads. The corner site is adjacent to commercial uses and residential uses are located on the properties located across the intersection of the two roads. The draft resolution includes conditions of approval to minimize negative impacts that the proposed off-site sale of beer and wine may have to surrounding land uses and ensure that the use remains compatible with the surrounding community.

4. *The proximity of the other establishments selling alcoholic beverages for either off-site or on-site consumption.*

The Police Department has prepared an Alcohol Related Statistics report for the project site that indicates an over concentration of alcohol licenses within this statistical area.

| Reporting District | Active ABC License | Per Capita |
|--------------------|--------------------|---------------------|
| RD No. 39 | 47 | 1 per 19 residents |
| RD No. 44 | 27 | 1 per 218 residents |
| RD No. 43 | 7 | 1 per 161 residents |
| County-wide | 5,589 | 1 per 542 residents |

The per capita ratio of 1 license for every 19 residents is higher than the adjacent districts and the average ratio for Orange County. However, this is due to the higher concentration of commercial land uses (Fashion Island, Newport Center, Corona del Mar Plaza) and low number of residential properties in the reporting district. Although the proposed off-site sale establishment is located in the RD39, it is not located in close proximity to other establishments selling alcoholic beverages within the RD, which are concentrated within Fashion Island and Newport Center. One location in an adjacent reporting district is in close proximity to the subject site (within the convenience market, of the Park Newport development).

5. *Whether or not the proposed amendment will resolve any current objectionable conditions.*

This factor is not applicable. Beer and Wine sales are not currently permitted at this location.

The Police Department has reviewed the concentration and crime statistics and the potential impact of the proposed application on crime and police services, and recommends approval of the establishment with a Type 20 (Beer and Wine) license with Department of Alcoholic Beverage Control (ABC). A copy of the report is included in Attachment No. PC 6. The hours that sales will be allowed on site are regulated by the ABC.

The conditions of approval recommended by the Police Department in their report related to design and security of the establishment are included in the conditions of approval of the draft resolution. The Type 20 alcohol license and the conditions of approval will effectively deter any potential problems which might have occurred with the introduction of beer and wine sales from the convenience market. In addition, all employees serving alcohol will be required to be at least 21 years of age and receive ABC-required Licensee Education on Alcohol and Drugs (LEAD) training.

Alcohol Sales Finding

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the Planning Commission must find that:

1. The use is consistent with the purpose and intent of Subsection 20.48.030 (Alcohol Sales) of the Zoning Code.

The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. Beer and wine are products that are typically found at convenience markets, and will be provided for the convenience of customers using the service station. Operational conditions of approval recommended by the Police department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

Use Permit Findings

In accordance with Sections 20.52.020.F, the Planning Commission must make the following findings for approval for a use permit:

1. The use is consistent with the General Plan and any applicable specific plan.

2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code.
3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.
4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.
5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

The proposed use is consistent with the General Plan and Zoning Code. Adequate parking is provided on the project site. The hours of operation are compatible with uses in the area and the 10:00 p.m. closing hour for the car wash will ensure the establishment does not exceed the night-time standards of the noise ordinance. Beer and wine sales will be provided as a convenience to the public. Operational conditions of approval have been included to ensure the service station, car wash, and beer and wine sales are compatible with the surrounding neighborhood. Staff believes the findings for approval can be made and facts in support of the required findings are presented in the draft resolution (Attachment No. PC 1).

Alternatives

1. If the Planning Commission determines that the findings for approval of the use permit or modification or waiver of the landscape design standards cannot be made, the Planning Commission should direct staff to prepare findings and a resolution, denying the request and return at the next Planning Commission meeting date with such resolution for adoption.
2. The Planning Commission may suggest specific design modifications that are needed to receive approval. If this is done, the item should be continued if the changes are reasonable and easily incorporated into the design. If substantial changes are directed, the item should be removed from calendar to allow redesign of the project.

Environmental Review

The project is categorically exempt under Section 15332, of the California Environmental Quality Act (CEQA) Guidelines - Class 32 (In-Fill Development Projects).

A detailed discussion of the proposed project and the exemption conditions is included in the draft resolution (Attachment No. PC 1).

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing, consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City's website.

Prepared by:

Kay Sims,
Assistant Planner

Submitted by:



Patrick J. Alford, Planning Manager

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 UP1496 and UP1496A
- PC 3 Table 1: Service Station Design and Development Standards
Table 2: Landscaping Standards
- PC 4 City of Newport Beach Design Guidelines: Automobile Service Stations and Washing
- PC 5 Trip Generation Calculations
- PC 6 Noise Study
- PC 7 Police Department: Alcohol-Related Statistics Report
- PC 8 Photos
- PC 9 Plans

Attachment No. PC 1

Draft Resolution

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. 2008-051 FOR AN INCREASE IN THE GROSS FLOOR AREA OF THE CONVENIENCE MARKET, REMOVAL OF THE EXISTING SERVICE BAYS, ADDITION OF AN AUTOMATED CAR WASH, AND INTRODUCTION OF OFF-SITE BEER AND WINE SALES (TYPE 20) TO AN EXISTING SERVICE STATION LOCATED AT 1550 JAMBOREE ROAD (PA2008-165)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by SDA PARTNERSHIP USA, with respect to property located at 1550 Jamboree Road, and legally described as Parcel 2 as shown on a map filed in Book 34, Page 40 of Parcel Maps in the office of the Orange County Recorder requesting approval of a conditional use permit.
2. The applicant proposes a conditional use permit to allow the following design and operation changes to an existing service station: demolition of three, unused service bays to increase the floor area of the existing convenience market; introduction of off-site beer and wine sales (Type 20); the addition of an automated car wash; removal of an existing office/storage building and trash enclosure; construction of a new trash enclosure; the addition of landscaping areas; and related interior and exterior improvements. The application also includes a modification or waiver of the landscaping standards of the Zoning Code to allow fewer trees and shrubs than required.
3. The subject property is located within the Commercial General (CG) Zoning District and the General Plan Land Use Element category is General Commercial (CG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on March 3, 2011 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 32 (In-fill Development Projects). Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

The subject property has a land use designation of General Commercial (CG) within the General Plan. The CG designation is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. Fuel/service stations, convenience stores, and car washing facilities are permitted uses within this land use designation.

The property is located within the Commercial General (CG) Zoning District. The convenience market and automated car wash uses are permitted as accessory uses to the service station with approval of a conditional use permit (CUP).

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The project site is located at the intersection of Jamboree and San Joaquin Hills Road, which are six-lane, divided roads designated as "major roads" in the Circulation Element of the General Plan. This site is 43,314 square feet (0.99 acres) in area and is completely surrounded by urban uses. The Land Rover (Jaguar/Aston Martin) auto dealership is located adjacent to the rear property line facing Jamboree Road. San Joaquin Hills Plaza office complex is located adjacent to the rear property line of the subject site, abutting the Land Rover site, facing San Joaquin Hills Road. A Shell service station and Big Canyon residential developments are located to the north of San Joaquin Hills Road. Harbor Cove residential development is located to the west of Jamboree Road, and Park Newport is located to the west of Jamboree Road and north of San Joaquin Hills Road.

(c) The project site has no value as habitat for endangered, rare or threatened species.

The site is currently fully developed with an existing service station and paved surface parking lot, and does not contain any habitat for endangered, rare or threatened species. Vegetation that exists on-site consists of non-native ornamental landscaping.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

Traffic:

Per comments from the Public works Department, the proposed project will not result in additional trip generation per ITE standards.

Noise:

The proposed redevelopment of the existing service station and addition of an automated car-wash will not generate a substantial increase in noise levels as compared to the existing service station operation. The car wash has been designed and hours have been limited to 7:00 a.m. to 10:00 p.m. to comply with the noise ordinance.

Air Quality:

The addition of the car wash use will not result in an overall increase in the average daily trips (ADT) to the site. The applicant expects construction of the car wash to take approximately 2 months. The project will be conditioned to comply with the regional AQMP established by the SCAQMD. This will ensure that any construction impacts are minimized.

Water Quality:

Some of the existing landscaped areas will be removed along the perimeter of the site to provide additional required parking spaces and a stacking area for vehicles entering the car wash. The applicant will be required to prepare a Water Quality Management Plan (WQMP) and will be required to comply with all requirements of the Zoning Code and Municipal Code related to water quality.

(e) The site can be adequately served by all required utilities and public services.

Sewer collection and wastewater treatment services are provided by the City of Newport Beach and the Orange County Sanitation District. All utilities (i.e. electricity, natural gas, and telephone) are currently available and serve the existing site. Fire and police protection facilities and services are located less than a mile south from the project site just east of Jamboree Road on Santa Barbara Drive.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code.*

Facts in Support of Finding

- A.-1. The project has been reviewed and conditions of approval are included to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is

maintained and that a healthy environment for residents and businesses is preserved. The service of beer and wine is intended for the convenience of customers using the service station. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

B. The use is consistent with the General Plan and any applicable specific plan;

Facts in Support of Finding

- B.-1. The subject property has a land use designation of General Commercial (CG) within the General Plan. The CG designation is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. Fuel/service stations, convenience stores, and car washing facilities are permitted uses within this land use designation. The existing service station, proposed remodel, and addition of a car wash are consistent with this designation.
- B.-2. The service station development is located adjacent to Jamboree and San Joaquin Hills Roads, which consist of six lanes each. Jamboree Road provides a major transportation route connecting Coast Highway with I-405 and San Joaquin Hills Road connecting to Fashion Island (a regional shopping center), Newport Center, and Corona del Mar Plaza. The proposed service station development will provide services for visitors to the City as well as residents and employees of businesses located within the area and throughout the City.
- B.-3. The subject property is not part of a specific plan area.

Finding

C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;

Facts in Support of Finding

- C.-1. The site is located in the Commercial General (CG) Zoning District. The CG zoning district is intended to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve City-wide or regional needs. The proposed service station development is located at the intersection of two major roads and will provide services for visitors to the City as well as residents and employees of businesses located within the area and throughout the City

Finding

- D. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding

- D.-1. The subject site is located at the southeast corner of the intersection of Jamboree and San Joaquin Hills roads, which are six-lane, divided roads classified as "major" roads by the General Plan. With the exception of the Shell service station located at the northeast corner of the intersection, residential uses are located to the east of Jamboree Road and north of San Joaquin Hills Road. Commercial and office uses are located adjacent to the site to the south and east. The site provides a convenient location for residents and employees of the neighboring areas, and visitors to the area to purchase fuel and convenience items. Conditions of approval are included to minimize, to the greatest extent possible, any impacts to the surrounding residential and commercial uses.
- D.-2. The size of the site (0.99 acres) complies with the standards of the Zoning Code related to minimum land area for service stations and car washing facilities and vehicular access to the site is provided via four driveways, two adjacent to Jamboree Road and two adjacent to San Joaquin Hills Road. The project is located and designed to provide adequate circulation and parking on the site for the service station, expanded convenience market area, and the car wash.
- D.-3. The hours of operation of the service station and convenience market, currently 24-hours-a-day, seven-days-a-week, will remain the same. The original use permit did not limit the hours of operation for the service station. It has been operating 24-hours-a-day, seven-days-a-week for an indeterminate time, and has not proven detrimental to the neighborhood or City. The project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible.
- D.-4. The automated car wash operation will be located at the rear of the site to provide adequate circulation and parking. The use permit includes conditions of approval requiring that the hours of operation are limited to 7:00 a.m. until 10:00 p.m. to comply with the City's exterior noise standards.

Finding

- E. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

Facts in Support of Finding

- E.-1. The project is located at the intersection of two major roads. The area of the site (0.99 acres) meets the minimum size requirements for service stations required by the

Zoning Code, and is large enough to provide adequate access, circulation and parking on the site to permit the addition of the car wash operation.

- E.-2. The subject site is developed with the existing service station operation and there is adequate public and emergency vehicle access, public services, and utilities, which are existing on the site to accommodate the proposed project development.
- E.-3. The improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- F. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- F.-1. The existing service station has been in operation since 1971 pursuant to Use Permit No. 1496, has not proven detrimental to the area, and has demonstrated that it is compatible with the neighboring residential and commercial uses.
- F.-2. Conditions of approval are included in the draft resolution, which will ensure that potential conflicts with the surrounding residential and commercial land uses are minimized to the greatest extent possible.
- F.-3. The automated car wash operation will be located at the rear of the site to maintain adequate circulation and parking on the site. The conditional use permit includes conditions of approval requiring that the hours of operation be limited to 7:00 a.m. until 10:00 p.m. to comply with the City's exterior noise standards.
- F.-4. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize any impacts to the surrounding area, which are related to the sale of alcohol from the convenience store.

Pursuant to Section 20.48.210.T.2 (Modification or waiver of standards), the Planning Commission may modify or waive any of the design and development standards upon finding that:

Finding

- G. *The strict compliance with the standards is not necessary to achieve the purpose and intent of the design standards section.*

Facts in Support of Finding

- G.-1. The shape of the site, the design and location of the existing service station and proposed car wash are unique to this location. The location, number, and maturity of the existing trees, shrubs, and landscaped areas enhance the overall visual quality of the site. The mature trees adjacent to the semi-circular rear property line provide a buffer from the service operation to the adjacent land uses.
- G.-2. Although not a part of the subject site, the landscaped area at the corner of Jamboree Road and San Joaquin Hills Road, enhances the overall service station site, and provides a buffer to screen the service station operation.
- H. *The project possesses compensating design and development features that offset impacts associated with the modification or waiver of standards.*

Facts in Support of Finding

- H.-1. A greater number of trees and shrubs are provided throughout the site than are required (27 trees required, 33 trees provided; 78 shrubs required, 194 shrubs provided).
- H.-2. Increases to the landscaped areas and plantings adjacent to the service station building are proposed, and additional landscaped areas will be planted adjacent to the proposed car wash building.
- I. *The overall site plan and architectural design is consistent with the City of Newport Beach Design Guidelines: Automobile Service Stations and Washing.*

Facts in Support of Finding

- I.-1. The overall site plan and architectural design of the existing service station and purposed car wash operation is consistent with the *City of Newport Beach Design Guidelines: Automobile Service Stations and Washing*.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit Application No. UP2008-051, subject to the conditions set forth in draft resolution, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF MARCH, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**
*(Project-specific conditions are in italics)***GENERAL**

1. *This resolution supersedes Planning Commission Use Permit Nos. UP14966 and UP1496A, which upon vesting of the rights authorized by this application, shall become null and void six months following the issuance of building permits for the proposed project.*
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. *The development shall be in substantial conformance with the approved site plan, floor plan(s), and building elevation(s) stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval).*
4. *Hours of operations for the car wash shall be limited to 7:00 a.m. until 10:00 p.m. daily. The hours of operation of the service station and convenience market (24 hours-a-day, 7 days-a-week) are permitted to continue.*
5. *The EVR shall be located on the side of the rear wall of the service station building shall be screened and painted to blend in with the remodeled building finishes, or be moved to a location at the rear of the property and be screened with landscaping and painted to the landscaping.*
6. This Use Permit may be modified or revoked by the City Council or the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. *The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.*
8. *Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.*
9. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.

10. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
11. *Use Permit No. 2008-051 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.60 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
12. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.

PARKING

1. *A total of 12 parking spaces (not including fueling spaces) shall be provided for the service station/convenience market operation. Five queuing spaces shall be provided for the car wash. All parking spaces and queuing spaces shall be maintained clear of obstructions at all times.*

NOISE

1. *A 6-foot-high-noise-barrier wall shall be installed surrounding the vacuum stations. The location of the barrier shall be constructed in the location shown on the plans dated with this approval or relocated to a location reviewed and approved by the Planning Director. The wall must have a surface density of at least 3.5 pounds per square foot, and shall have no openings or gaps. The wall may be constructed of stud and stucco, 3/8 plate glass, 5/8-inch Plexiglas, any masonry material, or a combination of these materials.*
2. *Prior to issuance of a permit to operate the car wash and final of the building permit, a post-construction noise study of the car wash system and vacuuming system stations and their location shall be conducted by a qualified acoustical engineer. The results of the study shall show that the noise levels of the car wash system and location and number (four) of the vacuum system stations comply with the City's Noise Ordinance.*
3. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

| | Between the hours of 7:00AM and 10:00PM | | Between the hours of 10:00PM and 7:00AM | |
|---|---|----------|---|----------|
| Location | Interior | Exterior | Interior | Exterior |
| Residential Property | 45dBA | 55dBA | 40dBA | 50dBA |
| Residential Property located within 100 feet of a commercial property | 45dBA | 60dBA | 45dBA | 50dBA |
| Mixed Use Property | 45dBA | 60dBA | 45dBA | 50dBA |
| Commercial Property | N/A | 65dBA | N/A | 60dBA |

4. The operator of the facility shall be responsible for control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code.
5. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets within the limits authorized by this permit, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
6. No outside paging system shall be utilized in conjunction with this establishment.

LIGHTING

1. Exterior light sources shall be shielded from view and directed away from adjacent properties in compliance with Section 20.30.070 (Outdoor Lighting). Luminaries shall be of a low-level, indirect diffused type and shall not exceed a height of 20 feet above existing grade.
2. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Planning Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Planning Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
3. Prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of light and glare specified per condition of approval LIGHTING, No.2. An additional photometric study will be provided, if required by the Code Enforcement Department.

SIGNAGE

1. *New signs or changes to existing signs shall comply with sign regulations required in Section 20.42.080.K.3 (Service Station Signs) and Section 20.42.120 (Comprehensive Sign Program), if applicable, of the Zoning Code.*
2. No temporary "sandwich" signs or similar temporary signs shall be permitted, either on-site or off-site.
3. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
4. Window signs visible on the exterior of the building are not permitted.

5. The final location of the signs shall be reviewed by the City Traffic Engineer and shall conform to City Standard 110-L to ensure that adequate sight distance is provided.

TRASH

1. *The location and design of the trash enclosure shall be in substantial conformance with the plans stamped and dated with the date of this approval.*
2. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
3. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
4. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
5. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
6. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., daily, unless otherwise approved by the Planning Director, and may require an amendment to this use permit.

LANDSCAPING

1. The project shall comply with Chapter 14.16 (Water Efficient Landscaping) of the Municipal Code, if applicable. The Planning Division and the General Services shall approve the final landscape planting and sprinkler irrigation plans and specifications before issuance of a building permit.
2. All landscape materials, landscaped areas, and irrigation systems shall be installed and maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

3. Prior to issuance of grading or building permits, the applicant shall submit plans for the review and approval by the Planning Division that incorporate the use of alternate paving materials or banding to break up expanses of pavement. The materials used shall be complimentary to the overall design and architecture of the site.
4. Prior to the final of building permits, the applicant shall schedule an inspection by the Code and Water Quality Enforcement Division to confirm that all landscaping was installed in accordance with the approved plan.
5. Reclaimed water shall be used whenever available, assuming it is economically feasible.
6. New landscaping shall incorporate drought-tolerant plant materials and drip irrigation systems where possible.
7. Water leaving the project site due to over-irrigation of landscape shall be minimized. If an incident such as this is reported, a representative from the Code Enforcement Division shall visit the location, investigate, inform and notice the responsible party, and, as appropriate, cite the responsible party and/or shut off the irrigation water.
8. Watering shall be done during the early morning or evening hours (between 4:00 p.m. and 9:00 a.m.) to minimize evaporation the following morning.
9. All leaks shall be investigated by a representative from the Code and Water Quality Enforcement Division and the applicant shall complete all required repairs.
10. Water should not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards.

ALCOHOL SALES

11. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
12. All exits shall remain free of obstructions and available for ingress and egress at all times.
13. Displays, shelving, etc. shall be positioned in such a way tht the clerk can be seen from outside the service station building.
14. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of

occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

15. No alcoholic beverages shall be sold between the hours of 2:00 a.m. to 6:00 a.m.
16. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.
17. The applicant shall post and maintain a professional quality sign facing the premise's parking lot(s) that reads as follows:

**NO LOITERING, NO LITTERING
NO DRINKING OF ALCHOLIC BEVERAGES
VIOLATORS ARE SUBJECT TO ARREST**

The sign shall be at least two feet square with two inch block lettering. The sign shall be printed in English and Spanish.

18. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
19. Beer, malt beverages, and wine coolers in containers of 16 oz. or less shall not be sold by single container, but must be sold in manufacturer pre-packaged multi-unit quantities.
20. Wine shall not be sold in bottles or containers smaller than 750 ml.
21. No person under the age of 21 shall sell or deliver alcoholic beverages.

VEHICLE USES

1. The parking of vehicles and equipment for purposes of sale or rental is prohibited.
2. No vehicles shall be parked or stored in the public right-of-way.
3. Fuel delivery trucks shall not obstruct the public right of way during delivery or any other time. Fuel delivery trucks shall not access the site during peak traffic periods (8:00 a.m. to 10:00 a.m. and 4:00 p.m. to 6:00 p.m.).

SITE ACCESS AND CIRCULATION

1. Parking layout shall be per City standard STD-805-L-A and STD-805-L-B. Standard parking stall dimensions shall be 8' 6" by 17' adjacent to minimum drive aisle width of 26 feet.

2. Prior to issuance of permits, final parking and circulation design shall be subject to further review by the City Traffic Engineer.
3. The drive aisle located between the proposed car wash building and the building shall remain open at all times and not be impacted by the car wash operation.
4. The car wash operation shall not impact the overall circulation on the site. Vehicles shall not queue/stack into the public right-of-way.
5. Site access shall be designed to comply with the City's sight distance standard STD-110-L.

UTILITIES

1. A sewer lateral con-out shall be installed per CNB-STD 406L at the property line.
2. A clarifier on the discharge side of the car wash drain system shall be installed.
3. If the car wash water supply will be tapping off of the existing domestic water line, the inlet to the water tank shall require an RP backflow or air-gap.

CONSTRUCTION

1. The construction and equipment staging area shall be located in the least visually prominent area on the site and shall be properly maintained and/or screened to minimize potential unsightly conditions.
2. A six-foot-high screen and security fence shall be placed around the construction site during construction.
3. Construction equipment and materials shall be properly stored on the site when not in use.
4. The applicant shall comply with SCAQMD Rule 403 requirements as follows:

Land Clearing/Earth-Moving

- a. Exposed pits (i.e., gravel, soil, dirt) with 5 percent or greater silt content shall be watered twice daily, enclosed, covered, or treated with non-toxic soil stabilizers according to manufacturers' specifications.
- b. All other active sites shall be watered twice daily.
- c. All grading activities shall cease during second stage smog alerts and periods of high winds (i.e., greater than 25 mph) if soil is being transported to off-site locations and cannot be controlled by watering.

- d. All trucks hauling dirt, sand, soil, or other loose materials off-site shall be covered or wetted or shall maintain at least two feet of freeboard (i.e., minimum vertical distance between the top of the load and the top of the trailer).
- e. Portions of the construction site to remain inactive longer than a period of three months shall be seeded and watered until grass cover is grown or otherwise stabilized in a manner acceptable to the City.
- f. All vehicles on the construction site shall travel at speeds less than 15 mph.
- g. All diesel-powered vehicles and equipment shall be properly operated and maintained.
- h. All diesel-powered vehicles and gasoline-powered equipment shall be turned off when not in use for more than 5 minutes.
- j. The construction contractor shall utilize electric or natural gas-powered equipment instead of gasoline or diesel-powered engines, where feasible.

Paved Roads

- k. Streets shall be swept hourly if visible soil material has been carried onto adjacent public paved roads.
 - l. Construction equipment shall be visually inspected prior to leaving the site and loose dirt shall be washed off with wheel washers as necessary.
- 5. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise, shall be limited to between the hours of 7:00 a.m. to 6:30 p.m., Monday through Friday and 8:00 a.m. to 6:00 p.m., Saturday. Noise-generating construction activities are not allowed on Sundays or federal holidays.
 - 6. Noise-generating equipment operated at the project site shall be equipped with effective noise control devices (i.e., mufflers, lagging, and/or motor enclosures). All equipment shall be properly maintained to assure that no additional noise, due to worn or improperly maintained parts, would be generated.
 - 7. Prior to commencement of demolition and grading of the project, the applicant shall submit a construction management and delivery plan to be reviewed and approved by the Public Works Department, if required. The plan shall include discussion of project phasing; parking arrangements for both sites during construction; anticipated haul routes; and construction mitigation. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan.
 - 8. Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation, if required. Large construction vehicles shall not

be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.

9. A haul route permit shall be required for any large construction related vehicle (i.e. dirt hauling vehicle).
10. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment.

Off-Site Impacts

- Encourage car pooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

11. Prior to the issuance of grading permits, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
12. Prior to issuance of grading permits, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of

the Building Department and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.

13. A list of "good house-keeping" practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

ENVIRONMENTAL

1. Prior to the issuance of grading or building permits, the applicant shall submit written documentation from the Orange County Department of Environmental Health, the Certified Unified Program Agency (CUPA) for Orange County, verifying that the project site is in compliance with all applicable Underground Storage Tank (UST) requirements, that the project site has passed any applicable UST site pollution testing and that the repair, maintenance and removal of any existing USTs is being performed in accordance with Orange County Department of Environmental Health (CUPA) regulations and policies.
2. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the (Jamboree Chevron Service Station) project including, but not limited to, (Use Permit No. 2008-051) and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. PC 2

UP1496 and UP1496A

USE PERMIT APPLICATION
CITY OF NEWPORT BEACH

No. 1496

Fee \$150.00

Planning Department
3300 Newport Boulevard
Phone (714) 673-2110

Applicant STANDARD OIL COMPANY OF CALIFORNIA Phone (714) 835-3601

Mailing Address STANDARD OIL COMPANY OF CALIFORNIA, WESTERN OPERATIONS, INC.
P. O. BOX 10520
1950 East 17th Street, Santa Ana, California 92701

Property Owner THE IRVINE COMPANY Phone (714) 644-3011

Mailing Address 550 Newport Center Drive
Newport Beach, California 92660

Address of Property Involved 1550 JAMBOREE ROAD
Most Southerly corner of San Joaquin Hill Road
and Jamboree Road

Purpose of Application (describe fully) Approval to construct a modern,
special designed Service Station

Zone HI-Rise Commercial Present Use Unimproved

Legal Description of Property Involved (if too long, attach sheet)

SEE ATTACHMENT

Donald E. Buck
Signature of Applicant or Agent

11-6-70
Date

Alvin J. Coker
IRVINE COMPANY
Signature of Owner

11-5-70
Date

XX

DO NOT COMPLETE APPLICATION BELOW THIS LINE

Date Filed 11-9-1970 Fee Pd. 150⁰⁰ Receipt No. 32546

Hearing Date 11-19-1970 Publication Date 11-10-1970

Posting Date 11-10-1970 Mail Date _____

P.C. Action APPROVED, SUBJECT TO ATTACHED CONDITIONS

Date 12-2-1970 Appeal _____

C.C. Hearing _____ C.C. Action _____

Date _____

Southeast corner San Joaquin Hills Road & Jamboree Road
Newport Beach, California

That portion of Block 55 of Irvine's Subdivision in the City of Newport Beach, County of Orange, State of California, as per map filed in Book 1, page 88 of Miscellaneous Record Maps in the office of the County Recorder of said County, Described as follows:

COMMENCING at the Northwesterly terminus of that certain course on the Southwesterly right of way of San Joaquin Hills Road shown as "North 53° 57' 12" West 517.65 feet" on a map of Tract No. 6015 filed in Book 239, pages 28 through 41 of Miscellaneous Maps in the office of said County Recorder; thence South 53° 57' 12" East along said right of way 42.82 feet to a point on a non-tangent curve concave Northerly having a radius of 65.00 feet and the True Point of Beginning a radial to said point bears South 53° 57' 12" East; thence Southwesterly and Northwesterly 110.20 feet along said curve through an angle of 97° 08' 18" to the Southeasterly right of way of Jamboree Road as described in a deed recorded in Book 7964, page 631 of Official Records of said County; thence non-tangent South 43° 30' 31" West along said right of way 170.00 feet to a point on a non-tangent curve concave Northerly having a radius of 235.00 feet and concentric with said 65.00 foot radius curve, a radial to said point bears South 43° 25' 09" West; thence Southeasterly and Northeasterly 399.38 feet along said curve through an angle of 97° 22' 21" to the Southwesterly right of way of said San Joaquin Hills Road; thence North 53° 57' 12" West along said right of way 170.00 feet to the True Point of Beginning.

ROLL CALL

December 2, 1970

INDEX

Martin
 Glass
 Brown
 Adkinson
 Dosh
 Watson
 Jakosky

5. That all parkway trees be planted in accordance with standards of the Parks, Beaches, and Recreation Department and the established inspection fee be paid.

The following two applications were discussed concurrently as they are interrelated.

Request to permit the establishment of a gasoline service station.

Location: Portion of Block 55, Irvine's Subdivision, located at the southeasterly corner of San Joaquin Hills Road and Jamboree Road.

Zone: C-O-H-UL

Applicant: Standard Oil of California, Santa Ana

Owner: The Irvine Company, Newport Beach

Item 4.

USE
PERMIT
NO. 1496

APPROVED

Request to permit a resubdivision of a vacant parcel of land into two parcels, one to be used as a service station site and one to be devoted to landscaping.

Location: Portion of Block 55, Irvine's Subdivision, located at the southeasterly corner of San Joaquin Hills Road and Jamboree Road.

Zone: C-O-H-UL

Applicant: Standard Oil of California, Santa Ana

Engineer: Holm, Tait and Associates, Anaheim

Owner: The Irvine Company, Newport Beach

Item 5.

RESUBDI-
VISION
NO. 290

APPROVED

The applications were presented to the Planning Commission by Planning Director Wilson.

Drawings of the proposed station were passed out to the Commission and Mr. G. E. Buck, Property Representative of Standard Oil Company was present at the meeting and displayed large renderings. A

ROLL CALL

December 2, 1970

INDEX

Motion
Second
All Ayes

x
x

lengthy discussion ensued during which Mr. Buck stated that this proposal was the culmination of three years work. Traffic channelization was again a concern of the Commission, as well as parking on-site, the plan showing 10 spaces. The Commission felt that 17 spaces on-site should be provided.

After further discussion, the application was approved subject to the following conditions:

1. Operation of the station shall be limited to:

- A. Dispensing of gasoline.
- B. Sale and changing of engine oil and filters.
- C. Lubrication of motor vehicles.
- D. Sale and installation of batteries and minor automotive accessories.
- E. Sale, mounting and repair of tires.
- F. Auto washing and waxing when done entirely within a building but not including any automatic or self service car wash.
- G. Operation of the station shall be limited to: Motor tune up service, the sale, replacement, and installation of brake shoes, cylinders, and minor replacement brake parts, and air conditioning service. There shall be no major engine and transmission overhaul or repairs. Nor shall there be any upholstery work, glass replacement, painting, welding, dismantling, and body and fender work.
- H. Merchandising - no service station shall be operated in a self-service manner. No sale, lease or rental of items, e.g., trailers, trucks, toys, peat moss, dolls or other items not clearly incidental to the automotive industry, shall be permitted. Soda pop, candy and cigarettes may be sold via dispensers if such dispensers are housed within a building and are not visible to the public right-of-ways.

2. All tires, oils, additives and other automotive items shall be housed within the building. No outside displays of merchandise of any kind shall be permitted.

Martin
Glass
Brown
Adkins
Dosh
Watson
Jakosky

3. There shall be no flags, banners, spinners, streamers or other attention attracting devices permitted at any time on the site.

4. Signing - a maximum of two signs, not exceeding 100 square feet, shall be permitted on any service station site. One sign not exceeding 50 square feet (each side) may be permitted in a freestanding location. No rotating, flashing or animated signs shall be permitted.

A. One price sign not to exceed 3' x 4' to be permitted at each gasoline service station site. Said sign must be approved by the Irvine Company and Planning Director insofar as materials, colors and location are concerned.

B. That one reasonable sized tire rack be allowed at each station, subject to the approval of the Planning Director.

5. All outside lighting shall be so arranged and shielded as to prevent any glare or reflection, and any kind of a nuisance, inconvenience and hazardous interference on nearby property or streets. No direct illumination sources shall be visible from adjacent properties or public right-of ways.

6. A detailed landscaping plan shall be submitted to and approved by the Planning Director. Such plan shall include the names of all plants, container size, spacing and the irrigation system proposed. Adequate trees shall be included to screen the station from the nearby residential development. All landscaping shall be installed in accordance with the approved plan and shall be permanently maintained in good condition.

7. All landscaped areas shall be separated from paved areas by a concrete curb 6 inches higher than the adjoining paving.

8. All utilities serving the site shall be installed underground.

MARTIN
GLASS
BROWN
ADKINSON
DOSE
WATSON
JAKOSKY

9. The development shall comply substantially with the plans filed with the application and these conditions of approval.
10. All provisions for disposal of runoff water shall be approved by the Director of Public Works.
11. This approval shall be null and void unless Resubdivision No. 290 is approved and completed.
12. Gasoline delivery - no delivery tanker shall be permitted to park on public right-of-ways during gasoline delivery.
13. Parking - a total of 17 off-street parking spaces shall be required and an amended plot plan submitted to the Planning Department.
14. The Commission may require the construction of six foot high decorative walls utilizing materials similar in color, texture and module to those used on the building, at such time as the property adjacent is proposed for development by virtue of a building permit. Such walls shall be reduced to 3 feet in height within 20 feet of the street property lines. Such walls need not be erected when building walls already exist on the property lines.
15. The Planning Commission shall reserve the right without necessity of further hearings to require minor modifications of any of the foregoing conditions or the working drawings if such modifications will achieve substantially the same results and will in no way be detrimental to adjacent properties and improvements than will the strict compliance with said conditions and preliminary plans.

Motion
Second
All Ayes

x
x

Resubdivision No. 290 was approved subject to the following conditions:

1. That all improvements be constructed as required by ordinance and the Public Works Department.

Martin
 Glass
 Brown
 Adkinson
 Dosh
 Watson
 Jakosky

2. That a parcel map be filed.
3. That a standard agreement and surety be provided to guarantee completion of the public improvements if it is desired to have a building permit issued or the parcel map recorded prior to completion of such improvements.
4. That additional street right-of-way be dedicated as necessary to provide for the free right-turn lane from northbound on Jamboree Road to eastbound on San Joaquin Hills Road.
5. That the Water Capital Improvement Acreage Fee for Zone III be paid.
6. That all parkway trees be planted in accordance with standards of the Parks, Beaches and Recreation Department and the established fee be paid.

Commissioner Adkinson left the meeting prior to consideration of the following item inasmuch as his firm represents the owners of the property.

Item 6.

Request to prezone unincorporated territory adjoining the City of Newport Beach for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation to the City. Specific consideration will be given to the establishment of a P-C "Planned Community" District to provide for the development of approximately 26.5 acres of land located north of Pacific Coast Highway and east of Superior Avenue for development as residential garden apartments and condominiums using up to three-story buildings with underground parking and expanded green areas.

ZONE
 CHANGE
 AMEND-
 MENT
 NO. 274
 APPROVED

Location: Portion of Lot 172, Block 1 and Lot 169, Block 2 of Irvine's Subdivision, located north of Pacific Coast Highway and east of Superior Avenue, south of the extension of Hospital Road.

Zone: R-3 (Orange County)

Applicants: William J. Cagney & James Cagney, N.B.

Owners: Same as applicants.



STANDARD OIL COMPANY OF CALIFORNIA,
WESTERN OPERATIONS, INC.

November 19, 1970

Re: Use Permit Application No. 1496
Standard Oil Company of California
Service Station
SE San Joaquin Hills Road & Jamboree Road
Newport Beach, California

Planning Commission
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California

Gentlemen:

Please refer to the staff report dated November 13, 1970. Item 1.G reads as follows:

"Operation of the station shall be limited to: There shall be no major engine tune up, brake replacement, upholstery work, glass replacement, painting, welding, dismantling, body and fender work and engine or transmission overhaul."

We feel that the condition prohibiting engine tune up and brake replacement would be an economic hardship on the operation of the proposed service station. Further, it would limit the residents in the area to an invaluable automotive service. It is our understanding, however, that the intent of these conditions is to restrict major engine or brake overhaul. We are in complete agreement with this intention.

As a point of clarification, we would suggest that the following language be substituted for condition 1.G, which would, in effect, accomplish our mutual objective:

"Operation of the station shall be limited to: Motor tune up service, the sale, replacement, and installation of brake shoes, cylinders, and minor replacement brake parts, and air conditioning service. There shall be no major engine and transmission overhaul or repairs. Nor shall there be any upholstery work, glass replacement, painting, welding, dismantling, and body and fender work."

Your consideration and approval of this amendment will be greatly appreciated.

Very truly yours,

G. E. Duck
Property Representative

CITY OF NEWPORT BEACH

November 13, 1970

TO: Planning Commission
FROM: Planning Department
SUBJECT: Use Permit Application No. 1496

Request to permit the establishment of a gasoline service station.

LOCATION: Portion of Block 55, Irvine's Subdivision, located on the southeasterly corner of San Joaquin Hills Road and Jamboree Road

ZONE: C-O-H-UL

APPLICANT: Standard Oil of California, Santa Ana

OWNER: The Irvine Company, Newport Beach

Application

This application requests permission to establish a gasoline service station at the southeasterly corner of San Joaquin Hills Road and Jamboree Road in the C-O-H-UL District. In accordance with Section 20:22.030(b) of the Newport Beach Municipal Code, gasoline service stations are permitted in the C-O District subject to the securing of a use permit.

Subject Property and Surrounding Land Use

The property in question is vacant and is located on the southeasterly corner of San Joaquin Hills Road and Jamboree Road in the 800 Block of Newport Center. The site is directly across San Joaquin Hills Road from the "Big Canyon" Planned Community (where Resubdivision No. 292 and Use Permit No. 1495 propose a similar service station) and across Jamboree Road from the "Park Newport" apartments. San Joaquin Hills Road and Jamboree Road are both constructed with raised medians in this area and, therefore, would permit right turns only in and out of the proposed service station.

There is an existing curb, gutter, and partial sidewalk on San Joaquin Hills Road, but no curb, gutter or sidewalk on Jamboree Road.

Analysis

The plans propose a station with the lube bays oriented away from the street and with a substantial area set aside for landscaping. Ten parking spaces will be provided on-site for use by employees and customers. The main structure, at the highest point, will be 17 feet in

TO:

Planning Commission - 2.

height . The predominant material used in the structure will be white norman brick. The treatment and overall effect is equal if not superior to the two stations located at the northerly corners of East Coast Highway and Jamboree Road.

Recommendation

Staff recommends approval of Use Permit No. 1496 subject to the following conditions (which are similar to those attached to the two previously mentioned stations at Jamboree Road and East Coast Highway):

1. Operation of the station shall be limited to:
 - A. Dispensing of gasoline.
 - B. Sale and changing of engine oil and filters.
 - C. Lubrication of motor vehicles.
 - D. Sale and installation of batteries and minor automotive accessories.
 - E. Sale, mounting and repair of tires.
 - F. Auto washing and waxing when done entirely within a building but not including any automatic or self service car wash.
 - G. There shall be no major engine tune up, brake replacement, upholstery work, glass replacement, painting, welding, dismantling, body and fender work and engine or transmission overhaul.
 - H. Merchandising - no service station shall be operated in a self-service manner. No sale, lease or rental of items, e.g., trailers, trucks, toys, peat moss, dolls or other items not clearly incidental to the automotive industry, shall be permitted. Soda pop, candy and cigarettes may be sold via dispensers if such dispensers are housed within a building and are not visible to the public right-of-ways.
2. All tires, oils, additives and other automotive items shall be housed within the building. No outside displays of merchandise of any kind shall be permitted.
3. There shall be no flags, banners, spinners, streamers or other attention attracting devices permitted at any time on the site.
4. Signing - a maximum of two signs, not exceeding 100 square feet, shall be permitted on any service station site. One sign not exceeding 50 square feet (each side) may be permitted in a freestanding location. No rotating, flashing or animated signs shall be permitted.
 - A. One price sign not to exceed 3' x 4' to be permitted at each gasoline service station site. Said sign must be approved by the

TO: Planning Commission - 3.

Irvine Company and Planning Director insofar as materials, colors and location are concerned.

- B. That one reasonable sized tire rack be allowed at each station; subject to the approval of the Planning Director.
5. All outside lighting shall be so arranged and shielded as to prevent any glare or reflection, and any kind of a nuisance, inconvenience and hazardous interference on nearby property or streets. No direct illumination sources shall be visible from adjacent properties or public right-of-ways.
 6. A detailed landscaping plan shall be submitted to and approved by the Planning Director. Such plan shall include the names of all plants, container size, spacing and the irrigation system proposed. Adequate trees shall be included to screen the station from the nearby residential development. All landscaping shall be installed in accordance with the approved plan and shall be permanently maintained in good condition.
 7. All landscaped areas shall be separated from paved areas by a concrete curb 6 inches higher than the adjoining paving.
 8. All utilities serving the site shall be installed underground.
 9. The development shall comply substantially with the plans filed with the application and these conditions of approval.
 10. All provisions for disposal of runoff water shall be approved by the Director of Public Works.
 11. This approval shall be null and void unless Resubdivision No. 290 is approved and completed.
 12. Gasoline delivery - no delivery tanker shall be permitted to park on public right-of-ways during gasoline delivery.
 13. Parking - ~~2 spaces per pump.~~
~~4 spaces per lube rack or service bay.~~
~~1 space per employee at peak staffing.~~
 14. The Commission may require the construction of 6 foot high decorative walls utilizing materials similar in color, texture and module to those used on the building, at such time as the property adjacent is proposed for development by virtue of a building permit. Such walls shall be reduced to 3 feet in height within 20 feet of the street.

TO: Planning Commission - 4.

property lines. Such walls need not be erected when building walls already exist on the property lines.

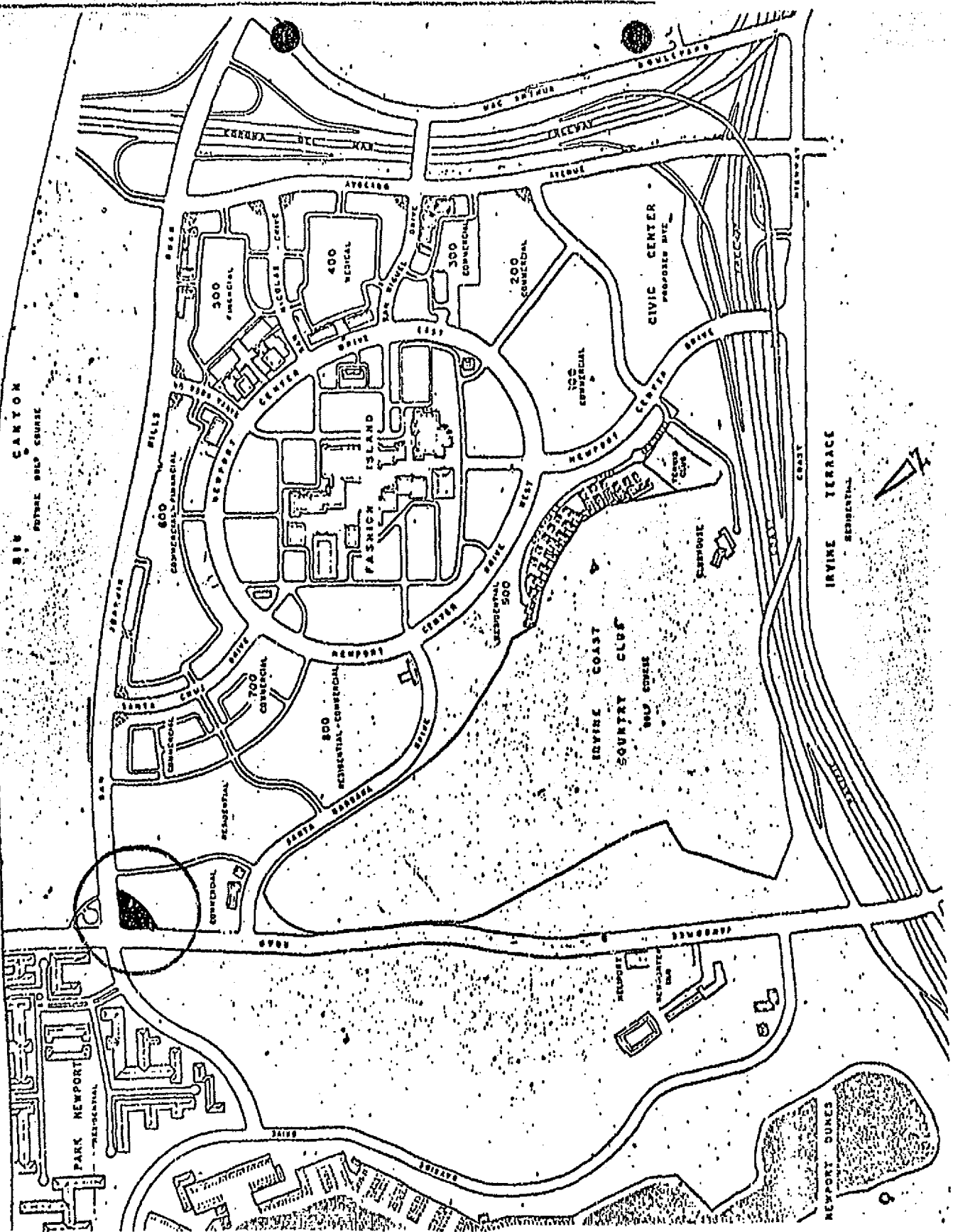
15. The Planning Commission shall reserve the right without necessity of further hearings to require minor modifications of any of the foregoing conditions on the working drawings if such modifications will achieve substantially the same results and will in no way be detrimental to adjacent properties and improvements than will the strict compliance with said conditions and preliminary plans.



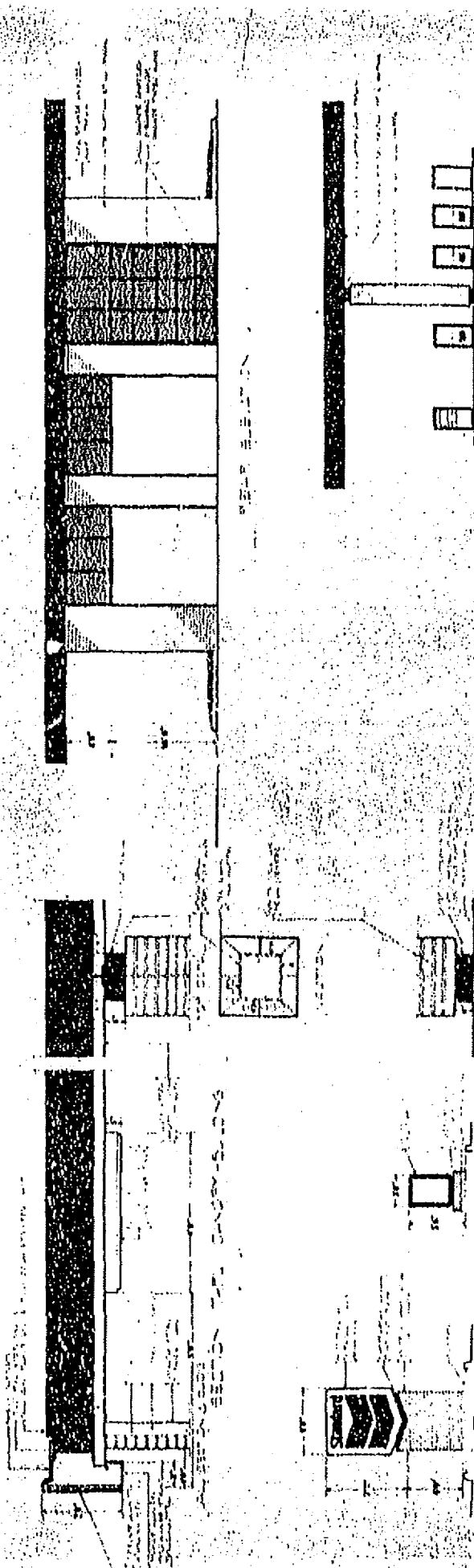
James E. Huzum
Senior Planner

JEN:hh

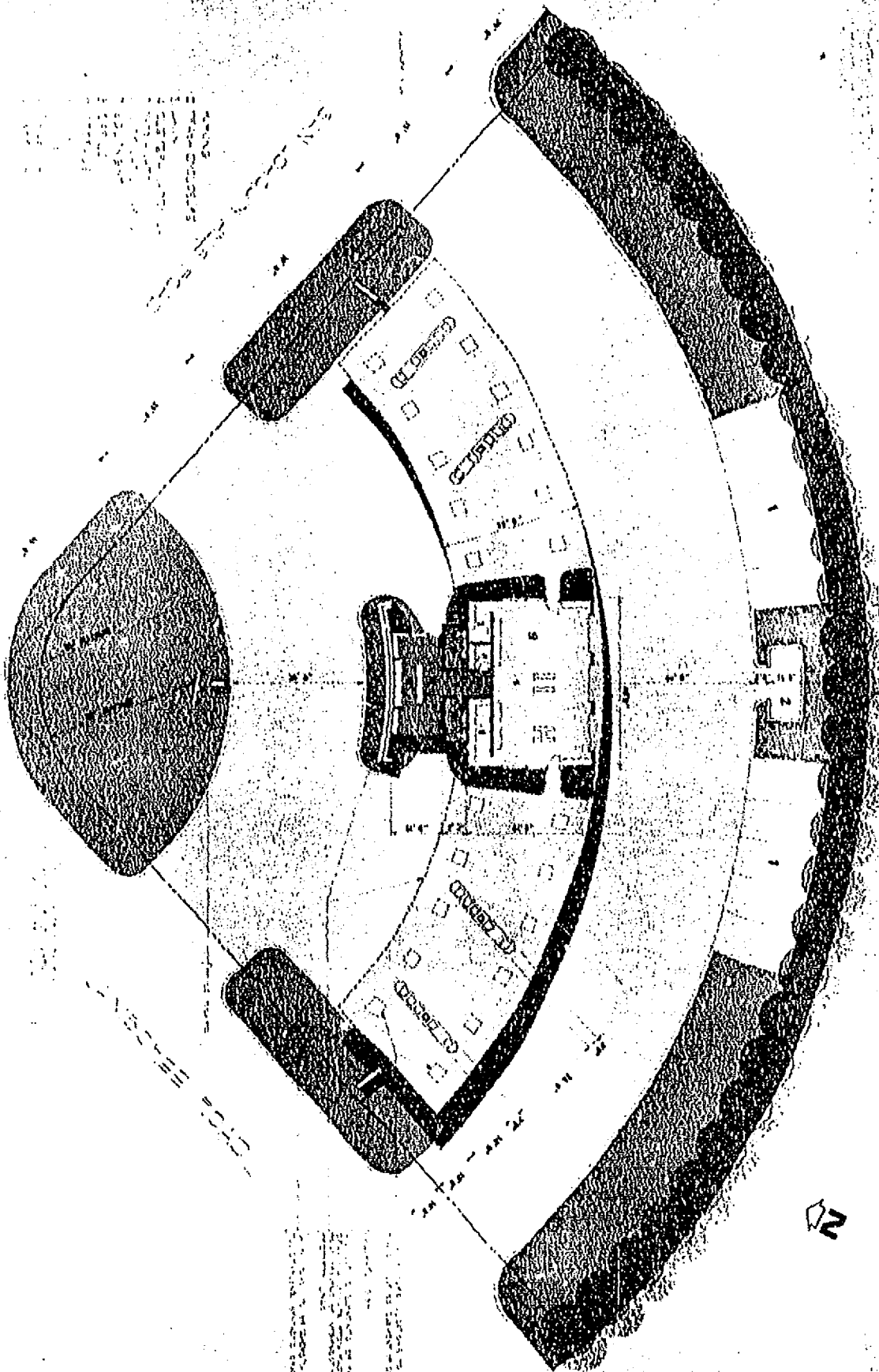
Attachments: Vicinity Map
Development Plans



U.P. 1496 &
RESUB # 290



PROPOSED STANDARD OIL SERVICE STATION - NEWPORT CENTER
JAMBORRE ROAD & SAN JOAQUIN HILLS ROAD
NEWPORT BEACH, CALIFORNIA



PROPOSED STANDARD OIL SERVICE STATION -

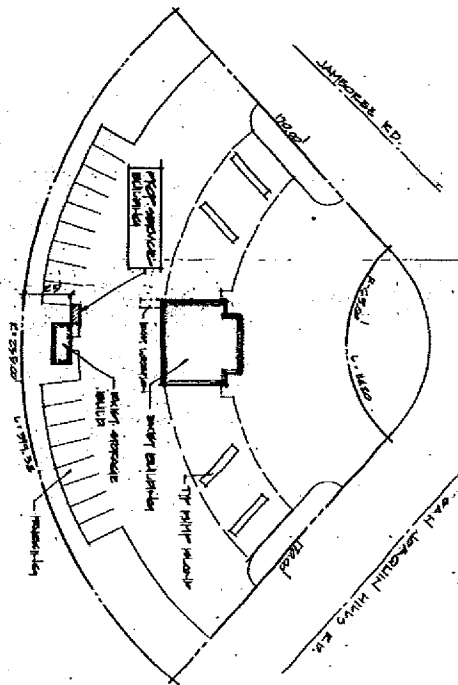
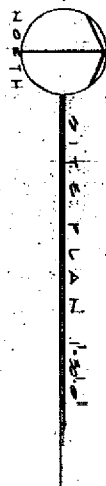
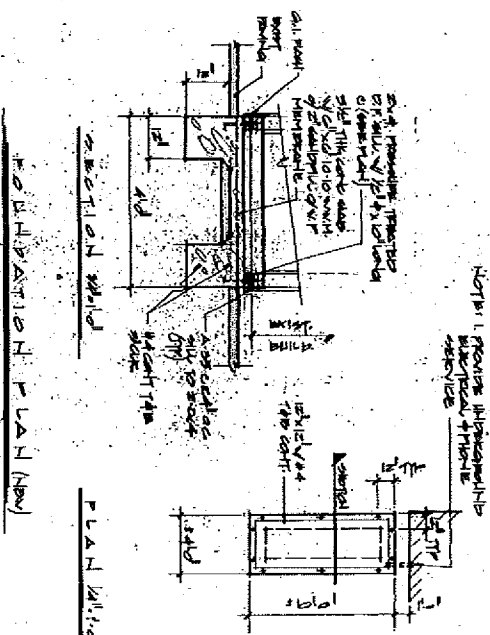
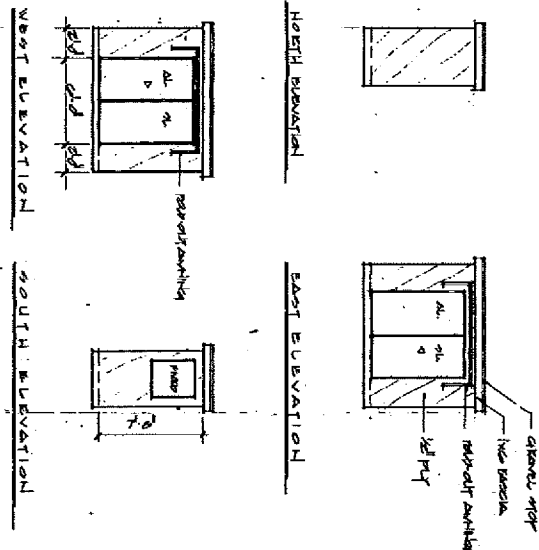
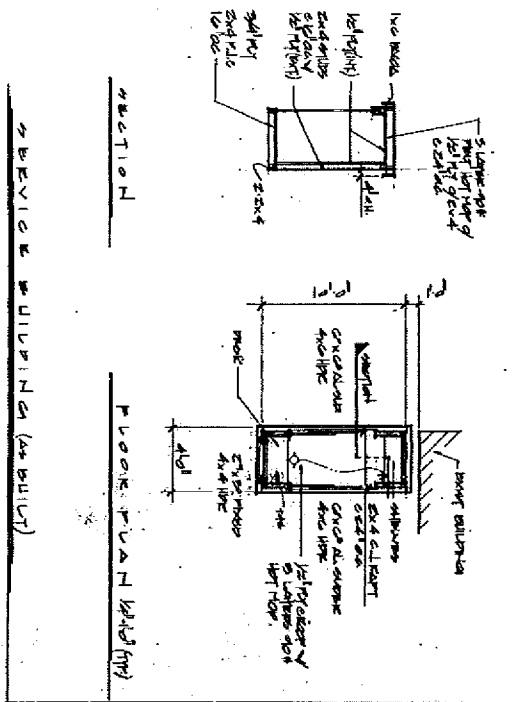
NEWPORT CENTER

JAMBORRE ROAD & SAN JOAQUIN HILLS ROAD

NEWPORT BEACH, CALIFORNIA

22

53



PROPOSED SERVICE BUILDING FOR
 NEWPORT CENTER CHEVRON, INC.
 RALPH & JIM SCHMIDT
 1350 JANUARY RD.,
 NEWPORT BEACH, CA, 92660
 714/440-9060

PREPARED BY
 JEFF CHAMBERLAIN
 711 W. 17TH ST., OF F.B.
 COSTA MESA
 CA 92627
 714/540-1400

October 9, 1986

WINGBURN
TURNER
PERSON
MERRILL
KIRLANDER
KOPPELMAN
EICHENHOFFER

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

Motion
Ayes
Absent

x x x x x
x x

There being no one desiring to appear and be heard, motion was made to approve Planning Commission Review No. 1, subject to the findings and conditions of approval in Exhibit "A". Motion voted on, MOTION CARRIED.

FINDINGS:

1. The proposed development will be aesthetically compatible with the structure and the surrounding area.
2. The proposed solar equipment will not intrude on views, or light and air, from adjoining residential property.

CONDITIONS:

1. That development shall be in substantial conformance with the approved plot plan, roof plan, and elevations.
2. That the proposed solar equipment shall comply with the City's Building, Plumbing and Mechanical Codes.

Use Permit No. 1496 (Amended) (Public Hearing)

Request to amend a previously approved use permit which permitted the establishment of an automobile service station on property located in the C-O-H District. The proposed amendment includes a request to construct a new office and trash enclosure at the rear of the existing service station.

LOCATION: Parcel No. 1 of Parcel Map 34-40 (Resubdivision No. 290), located at 1550 Jamboree Road, on the southeasterly corner of San Joaquin Hills Road and Jamboree Road, across the street from the Big Canyon Planned Community.

ZONE: C-O-H

Item No. 3

UP1496A

Approved

October 9, 1986

WINSBURN
TURNER
PERSON
MERRILL
KURLANDER
KOPPELMAN
EICHENHOFFER

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

APPLICANT: Newport Center Chevron, Inc., Newport Beach

OWNER: The Irvine Company, Newport Beach

In response to a question posed by Commissioner Kurlander, James Hewicker, Planning Director, replied that the previously approved dispatcher's booth shall be removed from the site no later than when the proposed construction is completed.

The public hearing was opened in connection with this item, and Mr. Joe Schulte, appeared before the Planning Commission on behalf of the applicant. Mr. Schulte confirmed that the dispatchers booth will be removed from the site as soon as the proposed construction is completed. He stated that the applicant concurs with the findings and conditions in Exhibit "A".

Commissioner Merrill referred to the Planning Commission meeting of August 8, 1985, Condition No. 4, and commented that the required trash enclosure had not been constructed. Mr. Schulte replied that when the current owner purchased the subject service station in 1985, an office had been constructed on the required trash enclosure area. Chairman Turner commented that instead of the required trash enclosure, the area was closed off to be used as storage.

Mr. Hewicker pointed out that the trash bin on the northeast side of the building was required to be placed in a solid wall enclosure with solid gates at the August 8, 1985, Planning Commission public hearing. Although this requirement has not been completed, he said that the problem will be corrected inasmuch as the current proposal includes the required trash enclosure.

The public hearing was closed at this time.

Motion
Ayes
Absent

x x x x x

x x

Motion was made to approve Use Permit No. 1496 (Amended) subject to the findings and conditions in Exhibit "A". Motion voted on, MOTION CARRIED.

FINDINGS

1. That the existing automobile service station is consistent with the Land Use Element of the General Plan and is compatible with surrounding land use.

October 9, 1986

WINGBURN
TURNER
PERSON
MERRILL
KURLANDER
KOPPELMAN
EICHENHOFFER

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

2. That adequate off-street parking spaces are being provided in conjunction with the service station operation.
3. That the proposed office and trash enclosure are minor additions to the existing service station operation and will not significantly alter the physical character of the service station use.
4. The approval of Use Permit No. 1496 (Amended), will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

CONDITIONS:

1. That development shall be in substantial conformance with the approved plot plan, floor plan, and elevations except as may be noted below.
2. That all previous applicable conditions of approval of Use Permit No. 1496 shall be fulfilled.
3. That the previous approval of Use Permit No. 1496 (Amended), as approved by the Planning Commission on August 8, 1985 is hereby null and void.
4. That the previously approved dispatcher's booth shall be removed from the site.
5. That all improvements be constructed as required by ordinance and the Public Works Department.
6. That arrangements be made with the Public Works Department in order to guarantee satisfactory completion of the public improvements, if it is desired to obtain a building permit prior to completion of the public improvements.
7. That the on-site parking, vehicular circulation and pedestrian circulation systems shall be subject to further review by the Traffic Engineer.

October 9, 1986

WINBURN
TURNER
PERSON
MERRILL
KURLANDER
KOPPELMAN
EICHENHOEFER

CITY OF NEWPORT BEACH

ROLL CALL

INDEX

8. That the tree-damaged sidewalk on Jamboree Road and the deteriorated curb and drive aprons where existing parkway drains exist shall be reconstructed under an encroachment permit issued by the Public Works Department.
9. That the applicant shall provide a solid masonry wall enclosure with solid gates for all trash bins and outdoor storage areas.
10. That the Planning Commission may add or modify conditions of approval to this use permit, or recommend to the City Council the revocation of this use permit, upon a determination that the operation which is the subject of this use permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
11. That this use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.09C A of the Newport Beach Municipal Code.

* * *

Use Permit No. 3233 (Public Hearing)

Item No. 4

Request to permit the establishment of a dry cleaning facility on property located in the Mariner's Mile Specific Plan Area and which is located in the Mariner's Mile Square Commercial Center.

UP3233Approved

LOCATION: Parcel No. 1, Parcel Map 73-22, 23 (Resubdivision No. 487), located at 2700 West Coast Highway, on the northwesterly corner of West Coast Highway and Tustin Avenue, in the Mariner's Mile Specific Plan Area.

ZONE: SP-5

APPLICANT: Celebrity Cleaners, West Hollywood

OWNER: Mariner's Mile Company, Newport Beach

The public hearing was opened in connection with this item, and Mr. Ali Samaha, applicant, appeared before the Planning Commission. Mr. Samaha stated that he concurs with the findings and conditions in Exhibit "A".

CITY OF NEWPORT BEACH

TO: Planning Commission
FROM: Planning Department
SUBJECT: Use Permit No. 1496 (Amended) (Public Hearing)

Request to amend a previously approved use permit which permitted the establishment of an automobile service station on property located in the C-O-H District. The proposed amendment includes a request to construct a new office and trash enclosure at the rear of the existing service station.

LOCATION: Parcel No. 1 of Parcel Map 34-40 (Resubdivision No. 290), located at 1550 Jamboree Road, on the southeasterly corner of San Joaquin Hills Road and Jamboree Road, across the street from the Big Canyon Planned Community.

ZONE: C-O-H

APPLICANT: Newport Center Chevron, Inc., Newport Beach

OWNER: The Irvine, Company, Newport Beach

ACTION:

Application

This is a request to amend a previously approved use permit which permitted the establishment of an automobile service station on property located in the C-O-H District. The proposed amendment includes a request to permit the construction of a new office and trash enclosure. In accordance with Sections 20.34.020 and 20.70.030 of the Newport Beach Municipal Code, automobile service stations are a permitted use in the C-O-H District, subject to the approval of a use permit in each case. Use permit procedures are set forth in Chapter 20.80 of the Municipal Code.

Environmental Significance

This project has been reviewed, and it has been determined that it is categorically exempt under Class 1 (Existing Facilities) from the requirements of the California Environmental Quality Act.

Conformance with the General Plan

The Land Use Element of the General Plan designates the subject property for "Retail Service Commercial" uses. The existing service station is a permitted use within this designation, subject to the approval of a use permit.

TO:

Planning Commission -2.

Subject Property and Surrounding Land Uses

The subject property is currently developed with an operating full service Chevron Automobile Service Station. To the northwest, across Jamboree Road, is vacant undeveloped land; to the northeast, across San Joaquin Hills Road, is an automobile service station and residential uses in the Big Canyon Planned Community; to the southeast is an office complex within the Civic Plaza Planned Community; and to the southwest is an automobile sales facility.

Background

At its meeting of December 2, 1970, the Planning Commission approved Use Permit No. 1496 which permitted the establishment of the existing service station. Said action was subject to no findings and 15 conditions of approval. In conjunction with the approval of Use Permit No. 1496, the Planning Commission approved Resubdivision No. 290 which permitted the resubdivision of an existing parcel of land into one parcel for the subject service station and one parcel for landscaping purposes. Said action was subject to no findings and 6 conditions of approval. An excerpt of the December 2, 1970 Planning Commission minutes, which set forth the conditions of approval for the above applications, has been attached for the Planning Commission's information.

In 1972, the City adopted Ordinance No. 1411 which established specific development standards for automobile service stations. Although the subject service station predates the adoption of said ordinance, in most cases it meets or exceeds the development standards applicable to new service stations.

At its meeting of August 8, 1985, the Planning Commission approved Use Permit No. 1496 (Amended) which permitted the construction of a small portable office booth to be used in conjunction with the service department of the existing service station. Attached for the Planning Commission's information is an excerpt of the Planning Commission minutes dated August 8, 1985.

Analysis

The applicant is now proposing to remove the previously approved dispatcher's booth and construct a small office at the rear of the service station which will include a new dispatcher's office as well as an office for the service and repair operation at the service station. The new office will contain approximately 130.5 sq.ft. of floor area.

In addition to the new office, the applicant is also proposing to construct a new trash enclosure which will contain approximately 100 square feet.

Off-Street Parking

In accordance with the originally approved Use Permit No. 1496, the existing service station is required to maintain 17 off-street parking

TO:

Planning Commission -3.

spaces. As shown on the attached site plan there are currently 17 parking spaces located along the rear of the site, which the applicant intends to retain. The applicant has also indicated that the proposed office addition will not result in an increase in the number of employees on the site; therefore, no additional parking spaces should be required at this time. It is staff's further opinion that the existing 17 parking spaces are adequate for the proposed service station operation.

Previous Illegal Conversion of Trash Bins

In conjunction with the Planning Commission's consideration of the previously approved Use Permit No. 1496 (Amended), staff reported to the Planning Commission that the existing storage building at the rear of the site was originally approved as a trash enclosure and was illegally converted to an enclosed storage space at some unknown date. Staff further indicated that they had no objections to said conversion of the trash area as long as suitable replacement facilities were provided. As a result, the Planning Commission required that the applicant provide a solid masonry wall enclosure with solid gates for all trash bins and outdoor storage areas (Condition No. 3 of Use Permit No. 1496 (Amended)). The proposed trash enclosure is in fulfillment of that condition.

Interior Property Line Setback

In accordance with Section 20.70.060 of the Municipal Code, all buildings within new automobile service stations are required to maintain a minimum 18 foot setback from any interior property line. In accordance with the submitted plans, it appears that the proposed office addition and new trash enclosure will maintain only a 15± foot setback from the southeasterly property line. Section 20.70.70 (d) of the Municipal Code provides that any remodeling or rebuilding of any service station, to the extent which would require the approval of a use permit, shall be designed so as to comply as nearly as possible with the standards set forth for new service stations. It is staff's opinion that the proposed 15± foot setback from the southeasterly property line is acceptable inasmuch as the new construction will maintain the same setback as an existing structure which is now being used as a storage area. It is staff's further opinion that the 15± foot setback will be adequate inasmuch as said setback is heavily landscaped and screened from the adjoining property.

Specific Findings and Recommendations

Section 20.80.060 of the Newport Beach Municipal Code provides that in order to grant any use permit, the Planning Commission shall find that the establishment, maintenance or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property improvements in the neighborhood or the general welfare of the City.

TO: Planning Commission -4.

Staff recommends approval of Use Permit No. 1496 (Amended) and suggests that the Planning Commission take such action subject to the findings and conditions set forth in the attached Exhibit "A"

PLANNING DEPARTMENT
JAMES D. HEWICKER, Director

By W. William Ward
W. William Ward
Senior Planner

WWW/11
UPA12

Attachments: Exhibit "A"
Vicinity Map
Excerpt of the Planning Commission minutes
dated December 2, 1970 and August 8, 1985
Plot plan, floor plan and elevations

EXHIBIT "A"
FINDINGS AND CONDITIONS OF APPROVAL
OF USE PERMIT NO. 1496 (AMENDED)

FINDINGS

1. That the existing automobile service station is consistent with the Land Use Element of the General Plan and is compatible with surrounding land use.
2. That adequate off-street parking spaces are being provided in conjunction with the service station operation.
3. That the proposed office and trash enclosure are minor additions to the existing service station operation and will not significantly alter the physical character of the service station use.
4. The approval of Use Permit No. 1496 (Amended), will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

CONDITIONS:

1. That development shall be in substantial conformance with the approved plot plan, floor plan, and elevations except as may be noted below.
2. That all previous applicable conditions of approval of Use Permit No. 1496 shall be fulfilled.
3. That the previous approval of Use Permit No. 1496 (Amended), as approved by the Planning Commission on August 8, 1985 is hereby null and void.
4. That the previously approved dispatcher's booth shall be removed from the site.
5. That all improvements be constructed as required by ordinance and the Public Works Department.
6. That arrangements be made with the Public Works Department in order to guarantee satisfactory

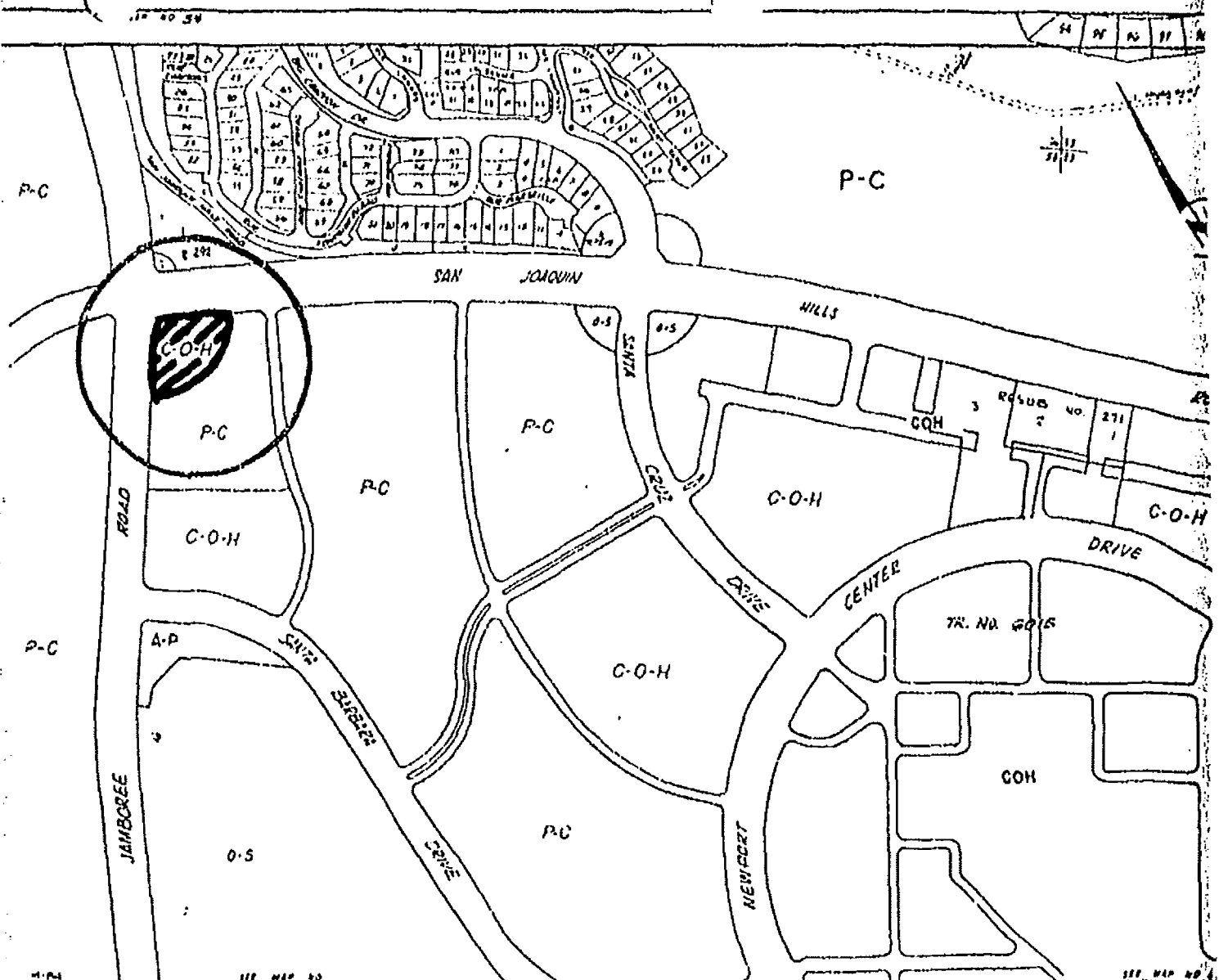
TO:

Planning Commission -6.

completion of the public improvements, if it is desired to obtain a building permit prior to completion of the public improvements.

7. That the on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the Traffic Engineer.
8. That the tree-damaged sidewalk on Jamboree Road and the deteriorated curb and drive aprons where existing parkway drains exist be reconstructed under an encroachment permit issued by the Public Works Department.
9. That the applicant shall provide a solid masonry wall enclosure with solid gates for all trash bins and outdoor storage areas.
10. That the Planning Commission may add or modify conditions of approval to this use permit, or recommend to the City Council the revocation of this use permit, upon a determination that the operation which is the subject of this use permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
11. That this use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090 A of the Newport Beach Municipal Code.

VICINITY MAP



DISTRICTING MAP CITY OF NEWPORT BEACH CALIFORNIA

| ZONING DISTRICT | REVISIONS | | | | REVISIONS | | | |
|--------------------------------------|-----------|-------------|---------|-------------|-----------|-------------|---------|-------------|
| | DATE | DESCRIPTION | DATE | DESCRIPTION | DATE | DESCRIPTION | DATE | DESCRIPTION |
| 1. AGRICULTURAL-RESIDENTIAL DISTRICT | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED |
| 2. SINGLE FAMILY DISTRICT | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED |
| 3. DUPLEX RESIDENTIAL DISTRICT | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED |
| 4. RESTRICTED MULTIPLE RESIDENTIAL | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED |
| 5. MULTIPLE RESIDENTIAL DISTRICT | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED |
| 6. COMBINING IN "B" DISTRICT | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED | 1-11-52 | ADOPTED |

USE PERMIT NO. 1496 (AMENDED)

September 24, 1986

TO: PLANNING DEPARTMENT
FROM: Public Works Department
SUBJECT: USE PERMIT NO. 1496 AMENDED CONDITIONS OF APPROVAL

CONDITIONS:

1. That all improvements be constructed as required by ordinance and the Public Works Department.
2. That arrangements be made with the Public Works Department in order to guarantee satisfactory completion of the public improvements, if it is desired to obtain a building permit prior to completion of the public improvements.
3. That the on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the Traffic Engineer.
4. That the tree-damaged sidewalk on Jamboree Road and the deteriorated curb and drive aprons where existing parkway drains exist be reconstructed under an encroachment permit issued by the Public Works Department.


Don Webb
City Engineer

RLH:jfd

Attachment No. PC 3

Table 1:

Service Station Design and Development
Standards

Table 2: Landscaping Standards

TABLE 1: SERVICE STATION DESIGN AND DEVELOPMENT STANDARDS

| | REQUIREMENT | | | | PROPOSED PROJECT |
|--------------------------|--|-----------------|---------------------------------------|--------------------------|--|
| Location | All service station sites shall front on streets designated as major, primary or secondary on the City Master Plan of Streets and Highways unless the sites are part of or in conjunction with developments such as shopping centers in residential areas. | | | | Complies. The location of the existing service station will remain the same. Jamboree Road and San Joaquin Hills Road are classified as "major" streets per the City Master Plan of Streets and Highways (Circulation Element). |
| Minimum Land Area | The minimum land area for service stations shall be 1,500 square feet of land area for each fueling space, 1,000 square feet for each service bay or washing bay, and 3.33 square feet for each square foot of gross floor area used for retail and/or food and beverage sales. | | | | Complies. 16 fueling space x 1,500 sq ft = 24,000 sq ft 2 washing bays x 1,000 sq ft = 2,000 sq ft convenience market gross floor area – 2,256.4 sq ft x 3.33 sq ft = (7,513.8 sq ft) = 7,514 sq ft Total Minimum Land Area Required = 33,514 sq ft Existing Land Area of Site 43,313 sq ft |
| Required Setbacks | Structure | Interior | Abutting a Public Right-of-Way | Abutting an Alley | Complies. The location of the existing service station canopies, service islands, building, retail and office areas, and air and water dispensers comply with the required setbacks. The proposed car wash building will be located a minimum 18 ft from the rear property line and will comply with the required setback for automobile washing. |
| | Service islands | 20 ft | 20 ft | 20 ft | |
| | Canopies | 5 ft | 5 ft | 5 ft | |
| | Air and water dispensers | 10 ft | 10 ft | 10 ft | |
| | Automobile washing, maintenance and repair | 18 ft | 30 ft | 30 ft | |
| | Retail and office | 0 ft | 15 ft | 10 ft | |
| Parking | Pursuant to Section 20.40.030 (Requirements for Off-Street Parking): number of parking spaces required is based on the land uses located on the site. - <u>Service stations with convenience markets</u> require one space per 200 square feet of gross floor area. - <u>Automobile washing</u> requires a queue for 5 cars per washing station. | | | | Complies. <u>Convenience market</u> gross floor area = 2,256 parking spaces required = 12 (2,256 sq ft/200) <u>Automated car wash</u> = (1) washing station Queue – 5 (5 cars per washing station) Total spaces required = 17 (12 + 5) *18 spaces on existing site: 3 existing service bays (to be removed)-required 5 spaces per bay |
| Utilities | All utilities shall be installed underground within the exterior property lines of the site. | | | | Complies. The existing utilities shall remain in place. There are no new utilities proposed to be installed as part of the project. |

| | REQUIREMENT | PROPOSED PROJECT |
|--------------------------------|--|--|
| Access | <p>-Driveways shall be so designed and located as to ensure a safe and efficient movement of traffic on and off the site to and from the lane of traffic nearest the curb. All driveways shall be located and constructed according to the City of Newport Beach Driveway Approach Policy.</p> <p>-Driveways for service stations which are developed as part of or in conjunction with adjacent uses shall be located as part of the total circulation element of such adjacent uses.</p> <p>-On-site driveways all should be a minimum of 25 feet for two-way traffic or 18 feet for one way circulation.</p> <p>-On-site queuing lanes shall be provided. Queuing lanes shall not interfere with access to required parking spaces.</p> | <p>Complies.</p> <p>The location of the existing driveways along Jamboree and San Joaquin Hills Roads will remain unchanged and comply with City standards. On-site circulation for the existing service station and the proposed queuing lanes have been reviewed and approved by the Public Works Department.</p> |
| Drainage and Pollution Control | <p>All drainage to the street shall be by underground structures to avoid drainage across City walks or drive aprons. In addition, service stations shall incorporate pollution control best management practices (BMPs) designed to prevent or minimize runoff of oil and grease, solvents, car battery acid, coolant, gasoline, and other pollutants into the storm water system. The Public Works director shall approve drainage and pollution control methods, if appropriate.</p> | <p>Complies.</p> <p>A condition of approval has been included which will require the submittal and approval of a WQMP (Water Quality Management Plan) by the Building and Public Works departments prior to building permit issuance.</p> |
| Site and Architectural Design | <p>The site plan and architecture of the service station shall provide an attractive appearance that is compatible with and complimentary to the community and surrounding land uses and development and that is consistent with the <i>City of Newport Beach Design Guidelines: Automobile Service Stations and Washing</i> (See discussion below)..</p> | <p>Complies.</p> <p>The proposed project has been designed to be compatible with the surrounding land uses and architecturally compatible with surrounding development. The project involves aesthetic improvements to the existing building and updated landscaping plantings to add to the overall appearance of the site. Additional discussion of <i>City of Newport Beach Design Guidelines: Automobile Service Stations and Washing</i> below).</p> |
| Landscaping | <p>See Landscaping Development Standards Table 2 and discussion below for specific landscaping requirements.</p> | |
| Perimeter Walls | <p>Service station sites shall be separated from abutting residentially-zoned property or property used for residential purposes by 6 foot high masonry or concrete wall utilizing materials similar in color, module and texture to those utilized in the building. Such walls shall be reduced to 3 feet in height within adjacent street setback areas. Such walls need not be installed when building walls or other acceptable walls already exist on such property lines</p> | <p>Not Applicable.</p> <p>The subject property does not abut residentially zoned property.</p> |
| Refuse Storage Areas | <p>Refuse storage areas shall be enclosed by walls and integrated with the design of the service station in compliance with Section 20.30.120 (Solid Waste Recycling and Storage).</p> | <p>Complies.</p> <p>A detailed plan for a new trash enclosure, which complies with the City's requirements, has been provided as part of the proposed project (sheet A2.3).</p> |

| | REQUIREMENT | PROPOSED PROJECT |
|-----------------|--|--|
| Lighting | Exterior light sources shall be shielded from view and directed away from adjacent properties in compliance with Section 20.30.070 (Outdoor Lighting). Luminaries shall be of a low level, indirect diffused type and shall not exceed a height of 20 feet above existing grade. | Complies. Existing and proposed on-site lighting complies with these requirements. A photometric study of the site (sheet LO90706-1) is included in the submitted plans. A condition of approval is included to require a night-time lighting inspection of the site be performed by the Code Enforcement Department after installation of lighting for the new car wash area is completed. An additional photometric study will be required, if the Code Enforcement Department determines that light on the site does not comply with the City's standards for lighting. |
| Rest Rooms | One men's rest room and one women's rest room shall be provided during business hours for use by service station customers. Rest rooms with exterior entrances shall be located so the entrances are in clear view of the station's service area, cashier station, or office. | Complies. Interior walls of the existing service station will be completely removed. The proposed redesign of the interior will provide ADA compliant restrooms for both male and female customers. |
| Fuel Tank Vents | Fuel tank vents shall be located at the rear of the property or other inconspicuous location and shall be screened from public view. | Complies. The existing fuel tank vents (EVR) are located on the side of the rear wall of the service station building. A condition of approval is included which requires that the vents be screened and painted to blend in with the remodeled building or be moved to a location at the rear of the property, screened with landscaping and painted to match the landscaping. |

TABLE 2: LANDSCAPING STANDARDS

| REQUIREMENT | PROPOSED PROJECT |
|--|--|
| Area Required: - A minimum of 15 percent of the site shall be landscaped with plant materials designed to provide beautification and screening. | Complies. Site = 43, 314 sq ft x 15% = 6,497 sq ft Landscaping provided on-site = 7,332 sq ft (112.8%) |
| - A minimum 5 foot-wide (inside dimension) planting areas between driveway approaches. | Complies. The landscaped areas vary from 9' 10" to 12' 0" wide. |
| - A minimum of 150 square foot landscaped area provided at the intersection of two property lines at a street corner. Landscape materials shall not exceed a height of 36 inches. | Complies. The existing landscaped area at the intersection of Jamboree Road and San Joaquin Hills Road is a separate parcel owned by the Irvine Company. It is not expected that the ownership of the parcel will change in the future. There is a monument sign identifying Fashion Island and mature trees on the parcel. |
| - A minimum 5 foot-wide (inside dimension) planting area along interior property lines, except where openings are needed to facilitate vehicular circulation to adjacent properties. | Complies. The landscaped areas vary from 8'4" to 17' 8" wide. |
| Area Required: - A minimum of 30 percent of the required landscaping shall be provided within 20 feet of the street property lines. | Complies. Landscaped area required = 6,497 sq ft (43, 314 sq ft x 15%) <u>Within 20' of street property lines</u> Required = 1,949 sq ft (6,497 sq ft x 30%) Provided = 2140 sq ft (33%) |
| Quantity of Materials: Landscaped areas adjacent to street property lines shall be planted with a minimum of 1 tree and 3 shrubs per every 25 linear feet of street frontage. Landscaped areas adjacent to interior property lines shall be planted with a minimum of 1 tree and 3 shrubs per every 30 linear feet. These calculations establish the minimum number of required trees and shrubs and are not meant to imply linear or equal spacing. Required trees shall be 24-inch box size, or larger. Required shrubs shall have a minimum mature growth height of 18 inches and shall be a minimum of 5-gallon in size upon installation. | Partially Complies, Modification or Waiver of Design Standards Sought. <u>Adjacent to street property lines:</u> (Linear street frontages: San Joaquin Hills – 169' + Jamboree Road 169' = 338 linear ft) <u>Required:</u> trees (338'/25') = 14 – provided 4 shrubs (338'/25' x 3) = 41 – provided 158 <u>Adjacent to interior property lines:</u> (367'/30 linear ft): <u>Required:</u> trees (367'/30') = 13 - provided = 29 shrubs (367'/30' x 3) = 37 - provided = 36 A modification or waiver to the landscaping standards is required to allow: 10 fewer trees adjacent to the street property lines and one less shrub adjacent to the interior property line. |

| | |
|--|---|
| <p><u>Quality of Materials:</u> Plant materials shall be chosen for their screening qualities, beauty and durability. Plantings shall include a mixture of trees, shrubs and groundcovers. All plant materials shall conform to or exceed the plant quality standards of the latest edition of <i>American Standard for Nursery Stock</i> published by the American Association of Nurserymen, or the equivalent.</p> | <p><u>Complies.</u> A condition of approval is included to require that the final design will be reviewed by the General Services Department prior to the issuance of building permits.</p> |
| <p><u>Street Trees:</u> City parkway areas shall be provided with groundcover and street trees as per City standards</p> | <p><u>Complies:</u> Two existing City trees located in tree wells adjacent to Jamboree Road will remain in place.</p> |
| <p><u>Barriers:</u> Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier.</p> | <p><u>Complies.</u> Curb provided. Compliance with this requirement will be verified during plan check and field inspections.</p> |
| <p><u>Sight Distances:</u> Landscaping shall be located so as not to impede vehicular sight distance in compliance with Section 20.30.130 (Traffic Safety Visibility Area) and to the satisfaction of the Public Works Director</p> | <p><u>Complies.</u> Per plans submitted, new landscaping will be located adjacent to the existing service station building and will not impede vehicular sight distance.</p> |
| <p><u>Irrigation:</u> All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected.</p> | <p><u>Complies.</u> Irrigation system plan and plantings provided (plan sheets L3 and L4). The final design will be reviewed by the General Services Department prior to the issuance of building permits.</p> |
| <p><u>Required Plans:</u> The Director shall approve landscape planting and sprinkler irrigation plans and specifications before issuance of a building permit, if appropriate.</p> | <p><u>Complies.</u> Standard included in the proposed conditions of approval</p> |
| REQUIREMENT | PROPOSED PROJECT |
| <p><u>Maintenance of Landscaping:</u></p> <ol style="list-style-type: none"> Landscape materials and landscaped areas shall be maintained in compliance with the approved landscape plan. Landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. Landscaped areas shall be kept free of weeds and debris. Irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance. | <p><u>Complies.</u> Conditions of approval are included to ensure compliance with these requirements.</p> |

Attachment No. PC 4

City of Newport Beach Design
Guidelines: Automobile Service Stations
and Washing

City of Newport Beach Design Guidelines

ADOPTED BY RESOLUTION NUMBER 99-37
MAY 24, 1999

City of Newport Beach
Design Guidelines

Table of Contents

- I. Introduction and Purpose
- II. Design Guidelines
 - A. General
 - 1. Site Relationships
 - 2. Landscape Design
 - 3. Off-Street Parking Design
 - B. Residential
 - C. Commercial
 - D. Signs
 - E. Additional Design Guidelines for Special Development Types
 - 1. Automobile Service Stations and Washing
 - F. Additional Design Guidelines for Special Districts and Sites

I. Introduction and Purpose

The Design Guidelines are intended to provide design criteria for architects, engineers, builders, developers and landscape architects during the planning and conceptual development stages of their projects. These guidelines also provide a basis for those individuals or bodies having discretionary authority to review and evaluate the design of these projects.

These guidelines are not intended to restrict creativity, variety, innovation or imagination, but rather to assist the designer in achieving a quality design which will enhance the proposed development and the City, and be compatible with adjacent development and land uses.

These guidelines are not regulatory, but rather advisory on the part of the City's approval authority. They shall be used to evaluate a project's consistency with City policies, particularly those relating to visual quality, community character, and the protection of adjacent development and land uses. Furthermore, should any conflict exist between these guidelines and codified development regulations, the development regulations shall prevail.

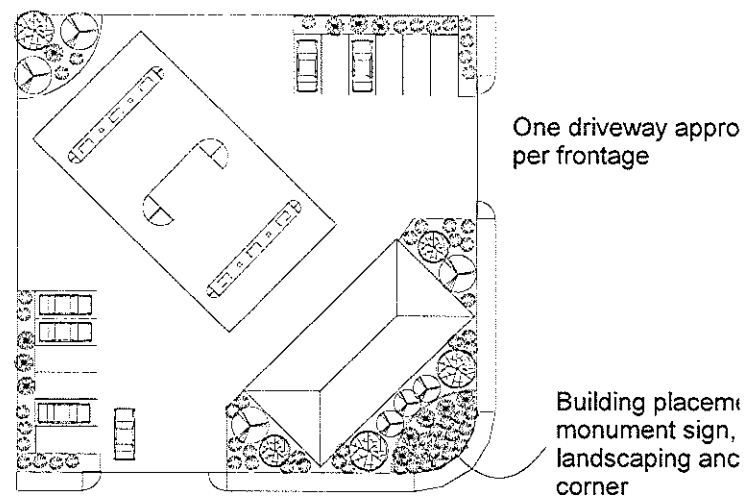
Additional Design Guidelines for Special Development Types

Automobile Service Stations and Washing

See Chapter 20.80 of the City of Newport Beach Zoning Code for land use and property development regulations. In addition to the design guidelines contained herein, the service station design shall be consistent with any design criteria or guidelines adopted by the City Council for the commercial district within which the service station is located, if any.

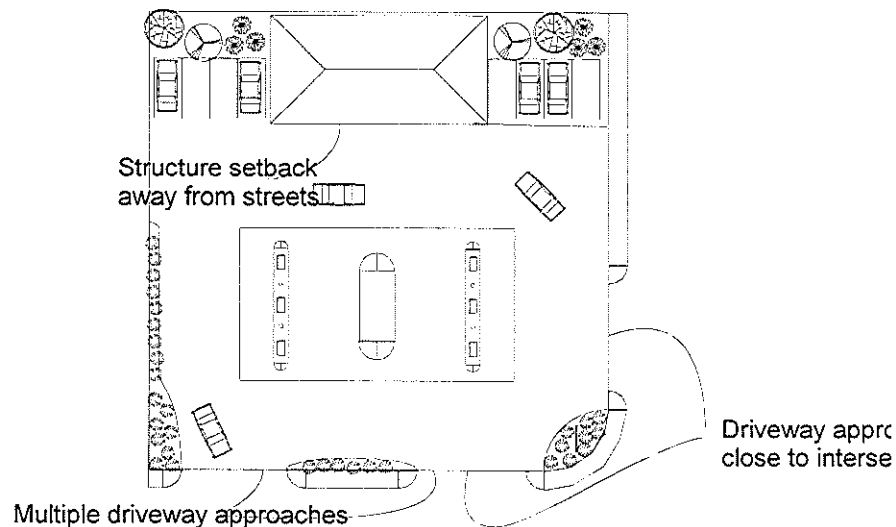
Site Design

- The site design for projects located at street corners should provide some structural or strong design element to anchor the corner. This can be accomplished using a built element or with strong landscaping features.
- In areas developed with a strong street presence, service stations should be oriented adjacent to the sidewalk, placing any service bay door and car wash openings on the rear of the structure facing away from public streets. Bay door and car wash openings should also be oriented away from any adjacent noise



Place driveways as far from intersections as possible

RECOMMENDED



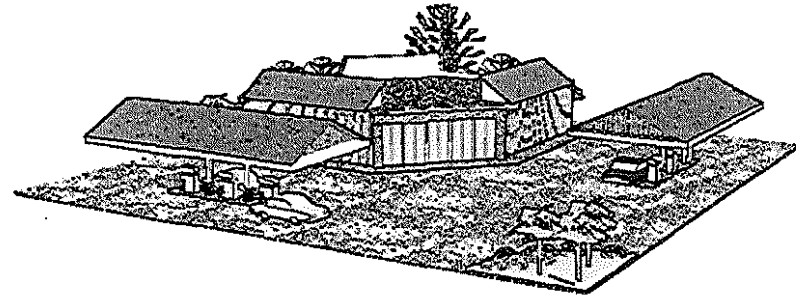
NOT RECOMMENDED

sensitive uses.

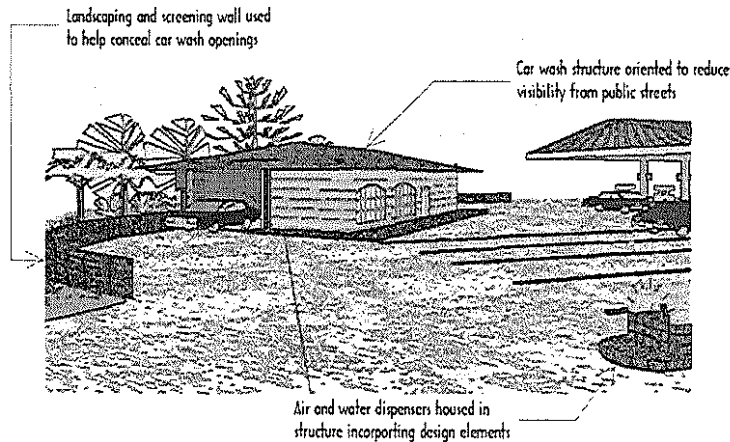
III

Site Design (Continued)

- Where possible, construct smaller, separate service islands/canopies, rather than a single large one.
- Service bay doors and car wash openings should be oriented so as to reduce visibility from public streets. The site design should also address potential visual and noise impacts to adjacent land uses.



Architectural Design



- ◆ Site specific architectural design is strongly encouraged. Rather than adapting a standard design to the site, the City strongly encourages floor plans and elevations that are unique to the community and are not a corporate or franchise design that is indistinguishable from those found elsewhere in the region.
- ◆ Building architecture should be designed to provide an attractive appearance that is compatible with and complimentary to the surrounding area. All architectural details should be related to an overall architectural theme.

- All buildings and structures on the site should have consistent materials and architectural and design elements to provide a cohesive project site. Conflicting materials and architectural and design elements within the site or on a building are strongly discouraged.
- Service stations should incorporate facade material to produce texture and to provide interest. Such materials include, but are not limited to, split face block, brick, slumpstone, granite, marble, clapboard, textured block or stucco. Reflective, glossy, and fluorescent surfaces are discouraged.
- Structures, including service island canopies, should incorporate full roof treatments with a low to moderate pitch and/or a varied parapet height. Variations in roof lines and heights should be provided where feasible. Flat roofs should be avoided unless it is a characteristic of a specific architectural style.
- Clay tile, concrete tile, wood shake, wood shingles, slate or a similar grade of roofing material should be used on all visible pitched roofs. Metal roofs should be avoided unless it is a characteristic of a specific architectural style.
- All service bays should be provided with roll-up (or similar) doors with all operating mechanisms located in the interior of the structure.

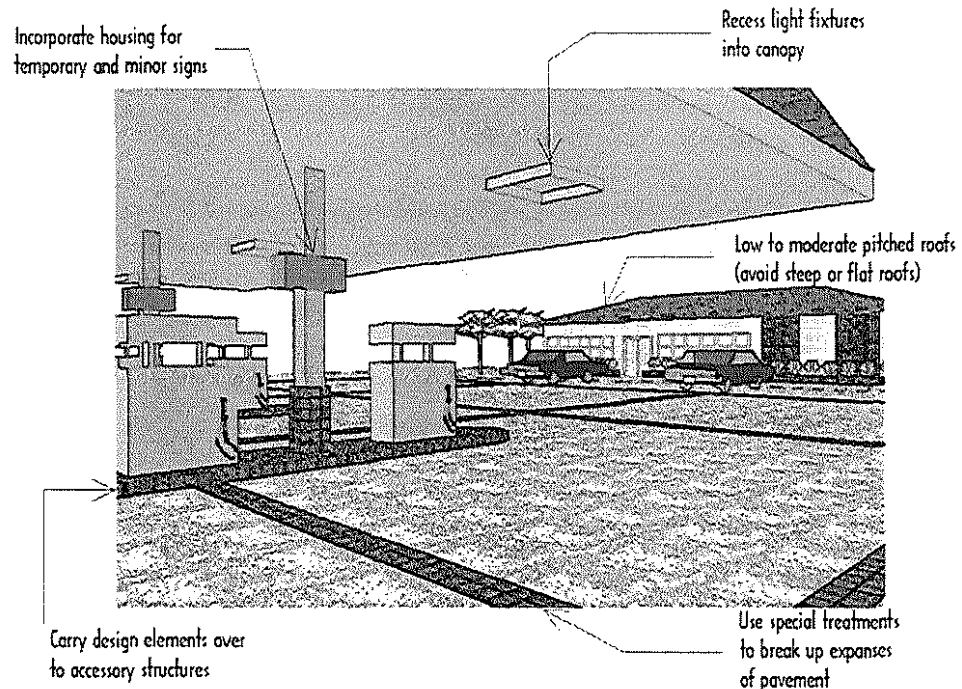
Site and Architectural Design Details

- All accessory buildings and structures should incorporate materials and architectural and design elements consistent with the principal building.
- Exterior storage and trash should be sited to be least visible from public view. Screening should consist of masonry walls with solid wood or metal doors. Exterior storage and trash should provide a screening trellis cover when visible from above (including upper floors) from adjacent properties.

- Tall (10 feet or higher) tank vents should be completely screened or incorporated into the building architecture.
- Any roof top mechanical equipment should be screened from view.

*Site and Architectural Design Details
(Continued)*

- Any structures used for housing air and water dispensers and similar fixed equipment should incorporate the architectural detail and design elements of the principal structure.
- Long expanses of wall surfaces should be architecturally treated to prevent monotony.
- Extensive expanses of pavement should be avoided. The amount of unrelieved pavement area on the site should be limited through the use of landscaping, contrasting colors and banding or pathways of alternate paver material.
- Canopies should not be internally illuminated. Light fixtures should be recessed into the canopy and no glare should be visible from the fixture.



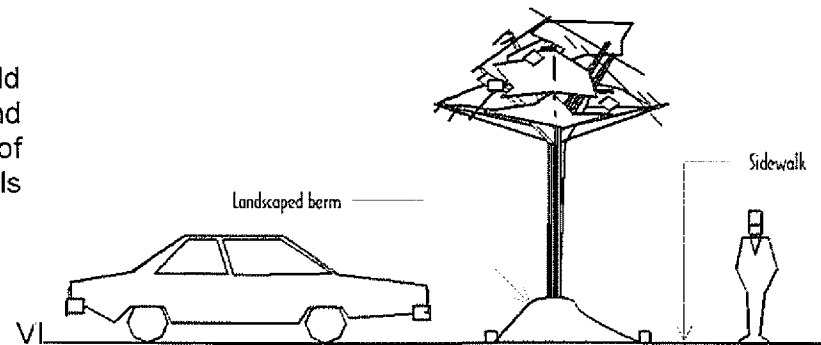
- ☐ Exterior lighting should be designed to avoid glare and direct light away from adjacent properties.
- ☐ Exterior lighting sources should be concealed so that it is not visible from adjacent properties.

Access and Circulation

- ☐ The on-site circulation pattern should include adequate driving space to maneuver vehicles around cars parked at the pumps.
- ☐ Fuel storage areas should be sited to insure that delivery trucks do not obstruct the public right-of-way during delivery.
- ☐ Driveway approaches should be limited to one per street for corner locations, or two per street for mid-block locations.
- ☐ Driveway approaches should be placed as far from intersections as possible.
- ☐ Driveway approaches on the same street should be placed a minimum of 25 feet apart.

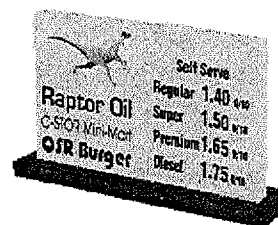
Landscaping

- ☐ All plant materials should be of sufficient size so that the landscaping has an attractive appearance at the time of installation and a mature appearance within three years of planting.
- ☐ Landscaping should be used to enhance architectural and design elements, break up large paving areas, buffer adjacent land uses and to screen undesirable features from public view.
- ☐ Where possible, landscape areas should provide a three tier system of grasses and groundcovers, shrubs, and trees. The use of landscaped berms and/or low screening walls adjacent to sidewalks is encouraged.

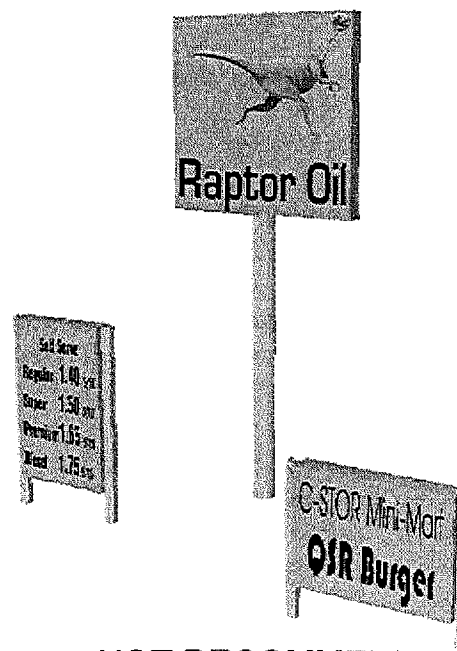


Signs

- ☐ All freestanding signs should incorporate materials and architectural and design elements consistent with the overall design of the project.
- ☐ Monument signs are the preferred type of freestanding sign.
- ☐ Backlit individually cut letter and internally illuminated channel letter wall signs are preferable to can wall signs.
- ☐ Multiple uses on the same site are encouraged to share space on freestanding signs, rather than provide individual signs.
- ☐ Fuel price signs should be incorporated into project's principal identification sign.
- ☐ The size and number of temporary and minor signs should be limited.
- ☐ Temporary and minor signs should be incorporated into the design of the



RECOMMENDED



NOT RECOMMENDED

principal building and the service islands.

X

Crime Prevention

- The site plan and floor plan should incorporate crime preventive design features. Such features may include, but are not limited to, openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

Attachment No. PC 5

Trip generation Calculations

1550 Jamboree Road - Chevron Station

Trip Generation Rates

| Land Use | Rate Type | Size | Unit | AM Peak Hour | | | PM Peak Hour | | | Daily |
|---|-----------|------|------------------|--------------|-----|-------|--------------|-----|-------|--------|
| | | | | In | Out | Total | In | Out | Total | Total |
| Gasoline/Service Station with Convenience Market | ITE 945 | | Fueling Position | | | 10.16 | | | 13.38 | 162.78 |
| Gasoline/Service Station with Convenience Market and Car Wash | ITE 946 | | Fueling Position | | | 11.93 | | | 13.94 | 152.84 |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

Existing Use

| Land Use | Rate Type | Size | Unit | AM Peak Hour | | | PM Peak Hour | | | Daily |
|--|-----------|------|------------------|--------------|-----|-------|--------------|-----|-------|-------|
| | | | | In | Out | Total | In | Out | Total | Total |
| Gasoline/Service Station with Convenience Market | ITE 945 | 16 | Fueling Position | | | 163 | | | 214 | 2604 |
| | | | | | | | | | | |

Proposed Use

| Land Use | Rate Type | Size | Unit | AM Peak Hour | | | PM Peak Hour | | | Daily |
|---|-----------|------|------------------|--------------|-----|-------|--------------|-----|-------|-------|
| | | | | In | Out | Total | In | Out | Total | Total |
| Gasoline/Service Station with Convenience Market and Car Wash | ITE | 16 | Fueling Position | | | 191 | | | 223 | 2445 |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| Change | | | | | | 28 | | | 9 | -159 |

Attachment No. PC 6

Noise Study

**NOISE ANALYSIS
FOR THE PROPOSED
JAMBOREE CHEVRON CAR WASH
CITY OF NEWPORT BEACH**

Project #512901-0200
November 18, 2010

Prepared For:

The City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Prepared By:

Fred Greve, P.E.
Mike Holritz, INCE
Mestre Greve Associates
Division of Landrum & Brown
27812 El Lazo Road
Laguna Niguel, CA 92677
Phone (949) 349-0671

**NOISE ANALYSIS
FOR THE PROPOSED
JAMBOREE CHEVRON CAR WASH
CITY OF NEWPORT BEACH**

1.0 INTRODUCTION

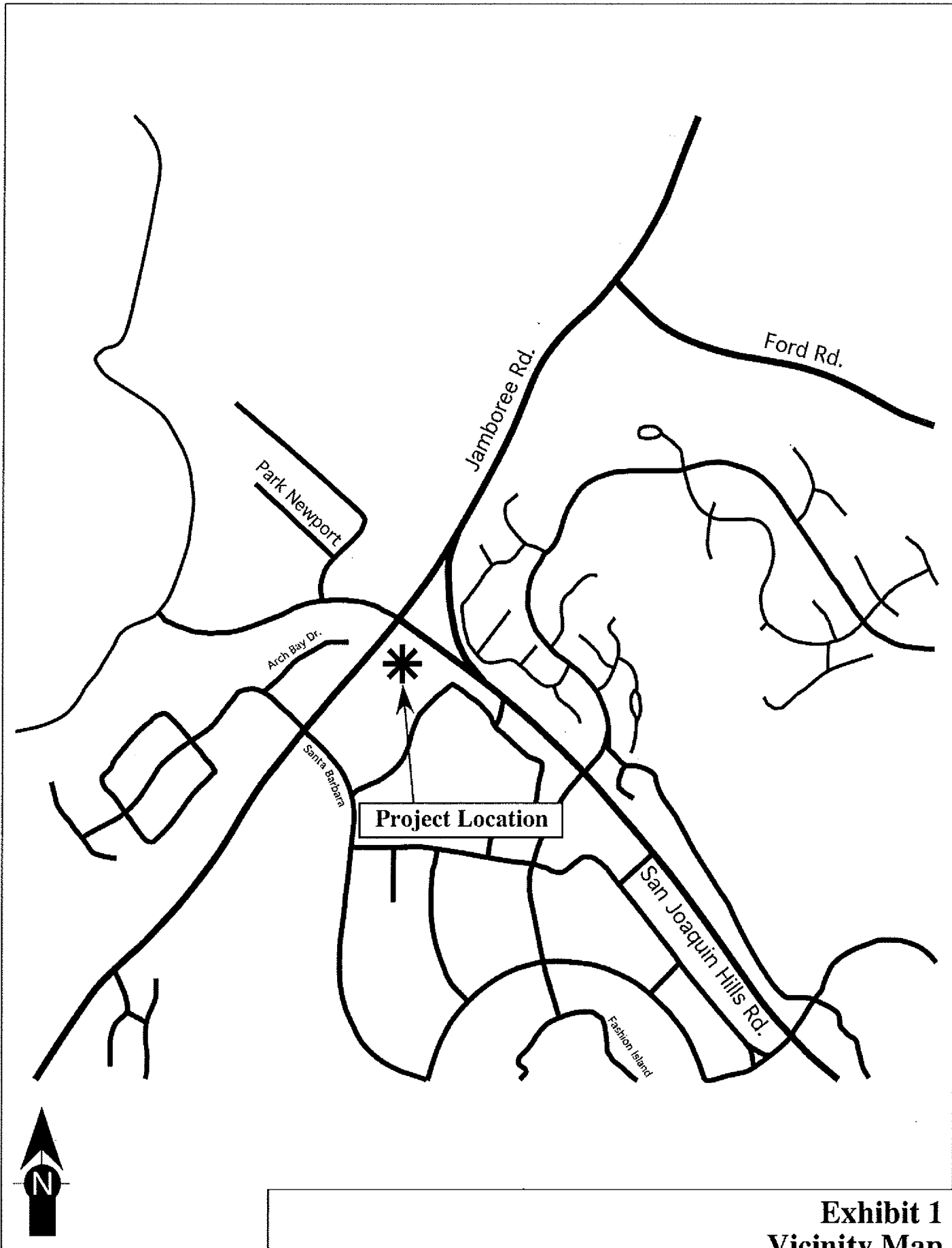
A car wash is being proposed for the existing Chevron gas station at the corner of Jamboree Road and San Joaquin Hills Road. The car wash will be “self-serve” and will be open 24 hours per day. The purpose of this report is to determine whether the noise levels from the proposed car wash will be consistent with the Noise Ordinance adopted by the City of Newport Beach. The project calls for the addition of a tunnel-type car wash. The facility will be the style where the car remains stationary during the wash and dry operations and a carriage containing the washing and drying equipment moves back and forth over the car.

The car wash is proposed to be located in the City of Newport Beach, as shown in Exhibit 1. The site plan is shown in Exhibit 2. Residences are located to the west (Harbor Cove), north (Park Newport), and northeast (Big Canyon) of the site. Commercial properties are located to the southwest (the Newport Beach Jaguar dealership) and southeast (the San Joaquin Plaza general offices) of the site. The potential noise impacts on these residential and commercial areas are addressed in this report, and required mitigation measures, if any, are identified.

2.0 BACKGROUND INFORMATION ON NOISE

Sound is technically described in terms of the loudness (amplitude) of the sound and frequency (pitch) of the sound. The standard unit of measurement of the loudness of sound is the decibel (dB). Decibels are based on the logarithmic scale. The logarithmic scale compresses the wide range in sound pressure levels to a more usable range of numbers in a manner similar to the Richter scale used to measure earthquakes. In terms of human response to noise, a sound 10 dB higher than another is judged to be twice as loud; and 20 dB higher four times as loud; and so forth. Everyday sounds normally range from 30 dB (very quiet) to 100 dB (very loud).

Since the human ear is not equally sensitive to sound at all frequencies, a special frequency-dependent rating scale has been devised to relate noise to human sensitivity. The A-weighted decibel scale performs this compensation by discriminating against frequencies in a manner approximating the sensitivity of the human ear. Community noise levels are measured in terms of the “A-weighted decibel” abbreviated dBA. Exhibit 3 provides examples of various noises and their typical A-weighted noise level.



SAN JOAQUIN HILLS

JAMBOREE ROAD

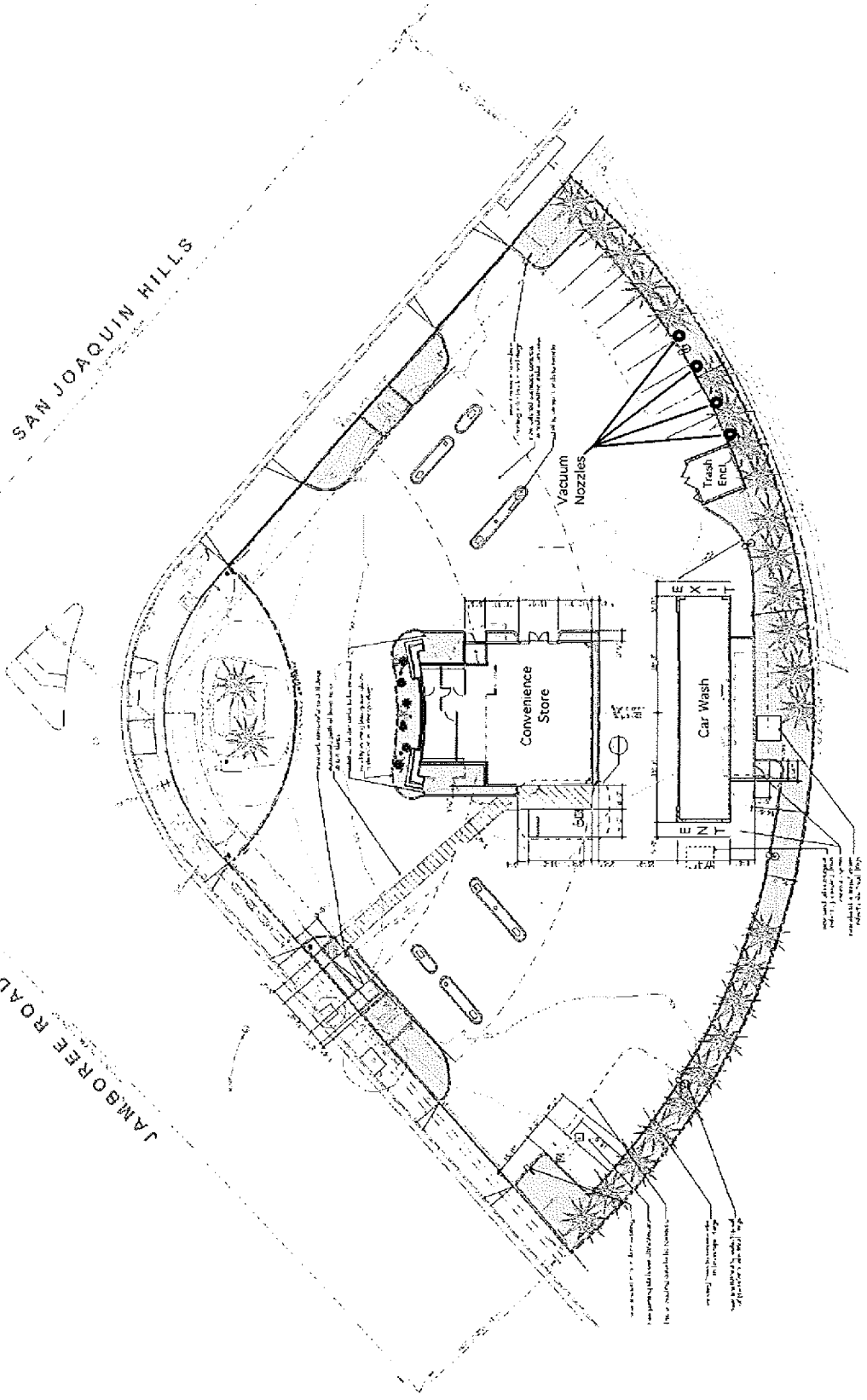
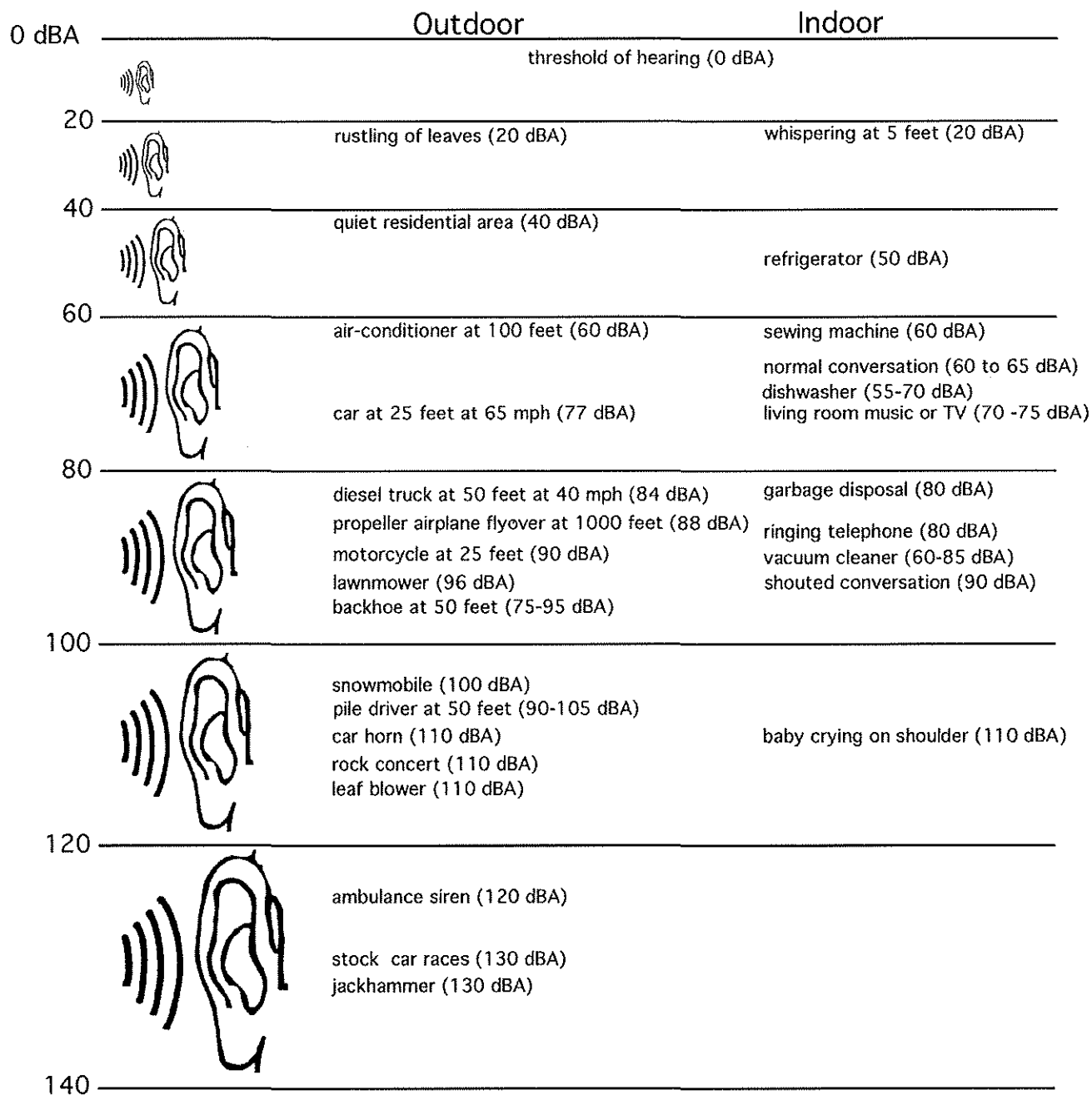


Exhibit 2 - Site Plan





Sources: League for the Hard Of Hearing, www.lhh.org
 Handbook of Noise Control, McGraw Hill, Edited by Cyril Harris, 1979
 Measurements by Mestres Greve Associates

Two commonly used metrics to describe fluctuating noise levels are L_{eq} and L_{max} . These metrics are described below. The noise level limits set forth in the City's Noise Ordinance are specified in terms of these metrics.

L_{eq} is the sound level corresponding to a steady-state sound level that would contain the same total energy as the time-varying signal over a given sample period. L_{eq} is the "energy" average noise level during the time period of the sample. It is the energy sum of all the events and background noise levels that occur during that time period.

L_{max} is the loudest sound level measured during the time period of the sample.

Sound levels decrease as a function of distance from the source as a result of wave divergence, atmospheric absorption and ground attenuation. As the sound wave travels away from the source, the sound energy is dispersed over a greater area, thereby dispersing the sound power of the wave. Intervening topography or sound walls can also have a substantial effect on the effective perceived noise levels.

Noise has been defined as unwanted sound and it is known to have several adverse effects on people. From these known effects of noise, criteria have been established to help protect the public health and safety and prevent disruption of certain human activities. This criteria is based on such known impacts of noise on people as hearing loss, speech interference, sleep interference, physiological responses and annoyance. Each of these potential noise impacts on people are briefly discussed in the following narratives:

HEARING LOSS is not a concern in community noise situations of this type. The potential for noise induced hearing loss is more commonly associated with occupational noise exposures in heavy industry or very noisy work environments. Noise levels in neighborhoods, even in very noisy airport environs, are not sufficiently loud to cause hearing loss.

SPEECH INTERFERENCE is one of the primary concerns in environmental noise problems. Normal conversational speech is in the range of 60 to 65 dBA, and any noise in this range or louder may interfere with speech. There are specific methods of describing speech interference as a function of distance between speaker and listener and voice level.

SLEEP INTERFERENCE is a major noise concern for traffic noise. Sleep disturbance studies have identified interior noise levels that have the potential to cause sleep disturbance. Note that sleep disturbance does not necessarily mean awakening from sleep, but can refer to altering the pattern and stages of sleep.

PHYSIOLOGICAL RESPONSES are those measurable effects of noise on people that are realized as changes in pulse rate, blood pressure, etc. While such effects can be induced and observed, the extent to which these physiological responses cause harm or are signs of harm.

ANNOYANCE is the most difficult of all noise responses to describe. Annoyance is a very individual characteristic and can vary widely from person to person. What one person considers tolerable can be quite unbearable to another of equal hearing capability.

3.0 NEWPORT BEACH NOISE ORDINANCE CRITERIA

Noise ordinances are designed to protect adjacent noise-sensitive land uses from non-transportation related noise sources operating on private property (e.g., manufacturing facilities, music, and mechanical equipment). Many communities have developed noise ordinances to control these types of non-transportation related noise.

The criteria contained in the City's Noise Ordinance (Municipal Code Chapter 10.26) are consistent with the recommendations set forth by the State Department of Health Services, and also consistent with noise ordinances currently adopted by many communities. These criteria are given in terms of allowable noise levels for a given period of time at the affected property. Higher noise levels are permitted during the day (7 a.m. to 10 p.m.) than at night (10 p.m. to 7 a.m.). The noise levels contained in Table 1 show the acceptable levels at outdoor land uses during each time period. The residential standards would apply to Harbor Cove, Park Newport, and Big Canyon. The commercial standards would apply to the Newport Beach Jaguar dealership and to the San Joaquin Plaza offices. The Leq standards are the average noise level during a fifteen minute period. The Lmax criteria applies to the highest noise level reached during the fifteen minute period.

Table 1
CITY OF NEWPORT BEACH
EXTERIOR NOISE ORDINANCE CRITERIA

| LAND USE | NOISE METRIC | NOISE LEVEL NOT TO BE EXCEEDED | |
|-------------|-----------------|--------------------------------|--------------------------------|
| | | Daytime 7 a.m. to 10 p.m. | Nighttime 10 p.m. to 7 a.m. |
| Residential | Leq (15-minute) | 55 dBA | 50 dBA |
| Residential | Lmax | 75 dBA | 70 dBA |
| Commercial | Leq (15-minute) | 65 dBA | 60 dBA |
| Commercial | Lmax | 85 dBA | 80 dBA |

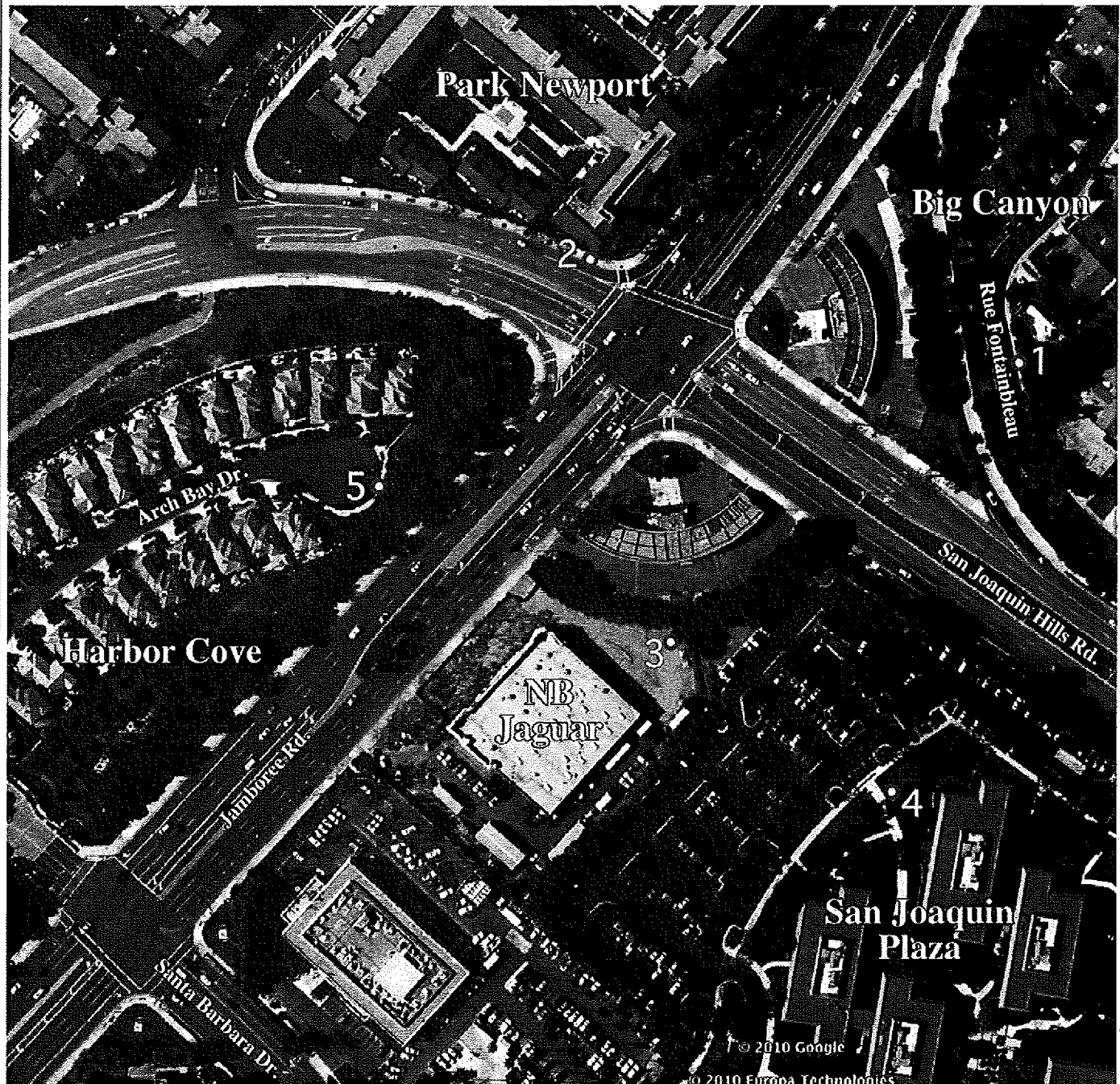
It is our understanding that the car wash will operate 24 hours a day. Therefore, projected noise levels are compared to both the daytime and the nighttime criteria. Previous measurements have shown that for this type of noise source, the Leq levels, and not the Lmax levels, are the critical metric. In the remaining text, compliance with the daytime and nighttime Leq criteria in the Noise Ordinance is the primary focus.

The indoor noise standards are 10 dB more stringent than the outdoor noise standards. Since residential buildings can be expected to provide at least 20 dB outdoor-to-indoor noise reduction, compliance with the exterior noise standards will also result in compliance with the indoor noise standards.

4.0 AMBIENT NOISE LEVELS

The noise standards can be adjusted for loud ambient conditions. The ordinance states that if the ambient conditions are louder than the ordinance limits, then the ambient conditions become the critical limits. In other words, when the ambient noise is louder than the Noise Ordinance limits, then the noise generated by the source cannot exceed the ambient conditions.

The ambient noise levels at several properties near the proposed project site were measured for 15 minutes during the daytime hours and for 15 minutes during the nighttime period. The measurements were performed on April 30, May 4, and May 10, 2010. The measurement sites are shown in Exhibit 4. During the measurements, local traffic, aircraft overflights, vehicle passes, and birds were the prime noise sources.



○ - Ambient Measurement Location



The sound level meter used for the measurements was a Brüel and Kjær Model 2236 sound level meter. This meter conforms to American National Standards Institute (ANSI) Type 1 specifications. The meter is laboratory calibrated and certified annually with calibration traceable to the National Institute of Standards and Technology (NIST). The meter was field calibrated before and after the measurement period using a Brüel and Kjær Model 4231 acoustical calibrator. The acoustical calibrator is also certified annually with calibration traceable to the NIST. Per the requirements of the City's Noise Ordinance, the sound level meter was set to record A-weighted sound levels with slow response.

The results of the ambient noise measurements are presented below in Table 2.

Table 2
AMBIENT NOISE MEASUREMENT RESULTS

| Site | Period | Lmin | LEQ | Lmax |
|------|---------------------|------|-------------|------|
| 1 | 1:49 to 2:04 p.m. | 52.5 | 60.7 | 71.7 |
| | 10:00 to 10:15 p.m. | 39.1 | 45.9 | 58.6 |
| 2 | 2:10 to 2:25 p.m. | 53.0 | 67.7 | 77.0 |
| | 10:21 to 10:36 p.m. | 45.4 | 65.4 | 82.6 |
| 3 | 2:32 to 2:47 p.m. | 48.3 | 59.7 | 72.1 |
| | 10:39 to 10:54 p.m. | 39.3 | 49.2 | 61.3 |
| 4 | 2:53 to 3:08 p.m. | 50.6 | 57.5 | 69.7 |
| | 11:00 to 11:15 p.m. | 39.0 | 44.3 | 64.3 |
| 5 | 1:45 to 2:00 p.m. | 44.8 | 60.8 | 74.8 |
| | 10:00 to 10:15 p.m. | 40.7 | 53.1 | 68.3 |

The results of the noise measurements indicate that at some locations, the ambient Leq noise level is above the Noise Ordinance limit, and therefore, adjustment to the criteria is warranted. The applicable noise level limit for each adjacent area (for daytime and nighttime periods) is shown below in Table 3.

Table 3
APPLICABLE NOISE LEVEL LIMITS (dBA LEQ)

| Site | Location | Land Use | Period | Noise Limit (Leq) | Limitation |
|------|-----------------------|-------------|----------------------|-------------------|--------------------------------------|
| 1 | Big Canyon | Residential | Daytime Nighttime | 60.7 50.0 | Measured Ambient Noise Ordinance |
| 2 | Park Newport | Residential | Daytime Nighttime | 67.7 65.4 | Measured Ambient Measured Ambient |
| 3 | NB Jaguar Parking Lot | Commercial | Daytime Nighttime | 65.0 60.0 | Noise Ordinance Noise Ordinance |
| 3 | NB Jaguar Building | Commercial | Daytime Nighttime | 65.0 60.0 | Noise Ordinance Noise Ordinance |
| 4 | San Joaquin Plaza | Commercial | Daytime Nighttime | 65.0 60.0 | Noise Ordinance Noise Ordinance |
| 5 | Harbor Cove | Residential | Daytime Nighttime | 60.8 53.1 | Measured Ambient Measured Ambient |

5.0 METHODOLOGY

Source noise levels for the equipment proposed for this facility were not available from the manufacturer or other sources. The exact equipment is not installed at any facility in the Southern California area, and so noise measurements of facility using the exact same equipment could not be made. Therefore, equipment source noise levels from a similar facility were measured and used for this analysis. Noise levels for the proposed car wash were based on measurements at two car washes with similar equipment to that planned for this facility. The data indicate that the dryers (by far the most important noise source for observers near the exit end of the car wash tunnel) produce a noise level of about 70.1 dBA at a distance of 50 feet. Noise levels at the entrance end are typically about 10 dB lower than at the exit end.

Noise levels for the coin-operated vacuum station located near the exit end of the car wash tunnel were obtained from previous measurements of similar equipment. (The central vacuum generator unit will be located inside the car wash equipment room, and

will not be a significant noise source). Typical vacuum stations of this type produce noise levels of approximately 75.9 dBA at a distance of 12 feet. There are four vacuum stations. We have assumed that during the daytime hours, two vacuum stations may run simultaneously during an entire fifteen-minute period. The noise levels for these conditions would be about 78.9 dBA LEQ at a distance of 12 feet.

The noise levels projected in this report were calculated from the projected source noise levels using a drop-off rate of 6 dB per doubling of distance. At the residential area to the northwest (Harbor Cove), an existing masonry block wall approximately 8 feet high is located between the proposed car wash site and the residences. The effect of this barrier is included in the projected noise levels for this area. Some observers are substantially off-axis from the tunnel exit opening. Field measurements have shown that observers that are off-axis 90 degrees or more experience noise levels up to about 12 dB lower. Differences in site configuration and other variables may affect the amount of noise reduction. A factor of -5 dB was applied to the exit end noise levels for observers that are off-axis 90 degrees or more, which is a conservative estimate.

For areas where noise levels exceed the Noise Ordinance limits, mitigation through the construction of a noise barrier is a common way of alleviating the noise impacts. A noise barrier effect occurs when the "line of sight" between the noise source and the observer is interrupted by the barrier. As the distance that the noise must travel around the noise barrier increases, the amount of noise reduction increases. A computer model was used here to determine the required barrier heights.

6.0 PROJECTED CAR WASH NOISE LEVELS

6.1 Daytime Levels

Based upon this data and the site plan, the daytime noise levels were calculated for observers at the adjacent properties. The distance to each observer, self-shielding by the car wash tunnel, and any existing barriers were included in the calculations. The resulting noise levels are shown below in Table 4.

Table 4
PROJECTED DAYTIME NOISE LEVELS (dBA)

| Site | Location | Land Use | Adjusted Limit (Leq) | Projected Noise Level (Leq) | Comparison With Noise Level Limit |
|------|-----------------------|-------------|----------------------|-----------------------------|-----------------------------------|
| 1 | Big Canyon | Residential | 60.7 | 53.3 | Meets Ordinance |
| 2 | Park Newport | Residential | 67.7 | 50.6 | Meets Ordinance |
| 3 | NB Jaguar Parking Lot | Commercial | 65.0 | 65.6 | Exceeds Ordinance |
| 3A | NB Jaguar Building | Commercial | 65.0 | 59.1 | Meets Ordinance |
| 4 | San Joaquin Plaza | Commercial | 65.0 | 54.8 | Meets Ordinance |
| 5 | Harbor Cove | Residential | 60.8 | 42.6 | Meets Ordinance |

The results of the analysis indicate that the unmitigated Leq noise level at the Newport Beach Jaguar dealership parking lot is projected to be about 65.6 dBA. This exceeds the daytime Noise Ordinance limit by 0.6 dBA. This is the only site that exceeds the daytime limit.

6.2 Nighttime Levels

The noise levels during the nighttime period would be expected to be substantially lower due to limited use during these hours. We have estimated that the car wash would be expected to operate 50% of the time or less during any 15 minute period. Noise levels for the car wash tunnel were reduced by 3 dB to account for this reduced operation time. We have also assumed that during the nighttime hours, one vacuum may run for 10 minutes during any given fifteen-minute period. The vacuum station noise levels for these conditions would be about 74.1 dBA LEQ at a distance of 12 feet.

Based upon this data, the nighttime noise levels were calculated for observers at the adjacent properties. The resulting noise levels are shown below in Table 5.

Table 5
PROJECTED NIGHTTIME NOISE LEVELS (dBA)

| Site | Location | Land Use | Adjusted Limit (Leq) | Projected Noise Level (Leq) | Comparison With Noise Level Limit |
|------|-----------------------|-------------|----------------------|-----------------------------|-----------------------------------|
| 1 | Big Canyon | Residential | 50.0 | 49.6 | Meets Ordinance |
| 2 | Park Newport | Residential | 65.4 | 46.8 | Meets Ordinance |
| 3 | NB Jaguar Parking Lot | Commercial | 60.0 | 62.4 | Exceeds Ordinance |
| 3A | NB Jaguar Building | Commercial | 60.0 | 55.7 | Meets Ordinance |
| 4 | San Joaquin Plaza | Commercial | 60.0 | 51.3 | Meets Ordinance |
| 5 | Harbor Cove | Residential | 53.1 | 39.2 | Meets Ordinance |

The results of the analysis indicate that at Newport Beach Jaguar dealership parking lot, the unmitigated Leq noise levels exceed the nighttime Noise Ordinance limits. The noise levels exceed the Noise Ordinance limits by between 0.6 dBA (during the daytime hours) and 2.4 dBA (during the nighttime hours). Therefore, some form of mitigation is needed.

7.0 MITIGATION MEASURES

In order to meet the City's Noise Ordinance limits, the following mitigation measures are required.

- 1) A noise barrier 6.0 feet high shall be installed surrounding the vacuum station. The location of this barrier is shown in Exhibit 5. The noise barrier must have a surface density of at least 3.5 pounds per square foot, and shall have no openings or gaps. The wall may be constructed of stud and stucco, 3/8-inch plate glass, 5/8-inch Plexiglas, any masonry material, or a combination of these materials.

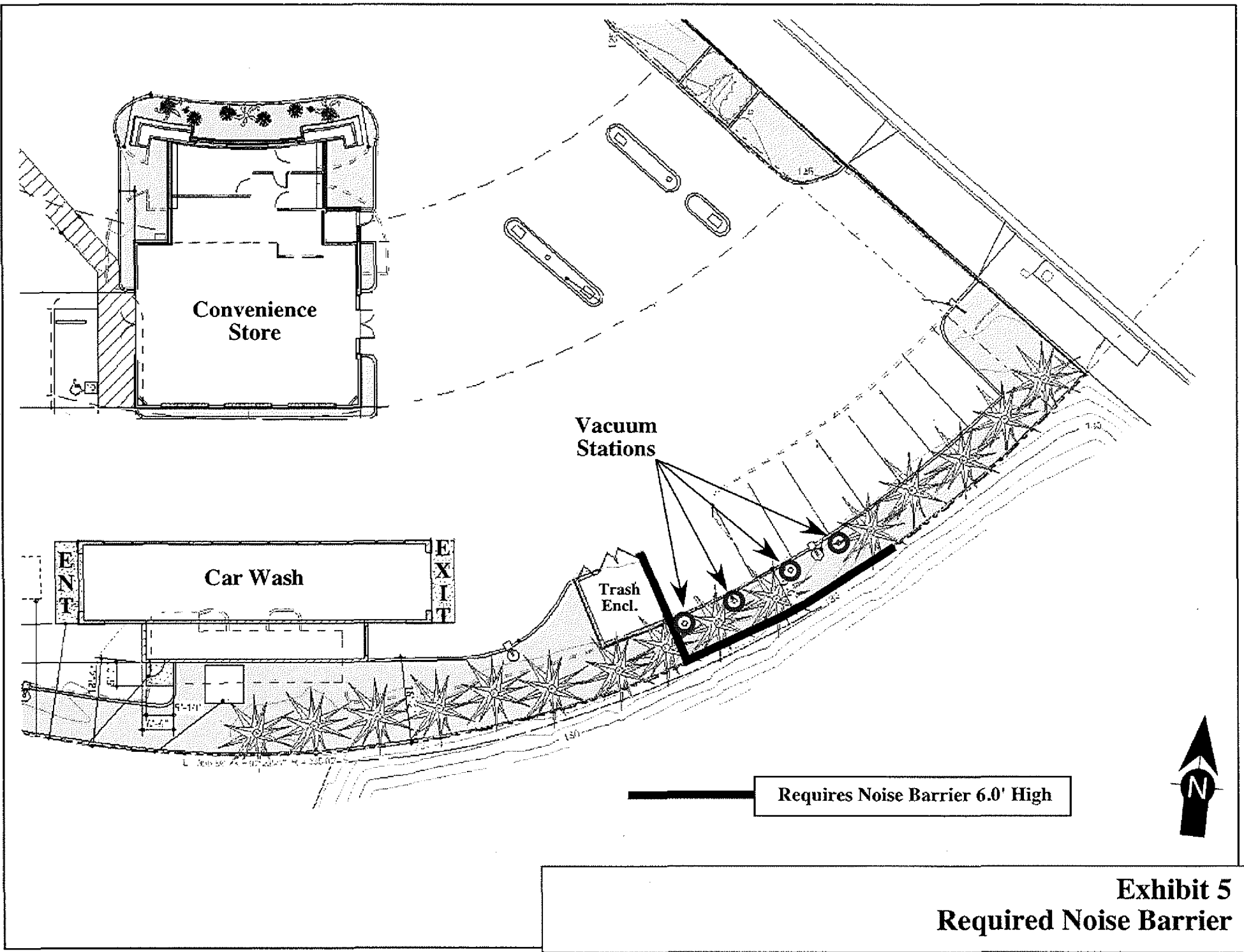


Exhibit 5
Required Noise Barrier

Noise data is not available for the equipment that will be used for the proposed car wash. We have used measured noise data for what we believe to be similar equipment. However, since specific noise data could not be obtained for the proposed equipment, we are recommending that post-construction testing be performed.

- 2) Noise levels of the car wash and vacuum system shall be made by a qualified acoustical engineer that show compliance with the City's Noise Ordinance prior to the issuance of a permit to operate. A report prepared by the acoustical engineer shall be submitted to the City.

With the mitigation measures in place, the noise levels at all adjacent areas will be significantly reduced. Table 6 and Table 7 show the projected nighttime noise levels at each site after the required mitigations.

Table 6
PROJECTED DAYTIME NOISE LEVELS (dBA)
WITH REQUIRED MITIGATION MEASURES

| Site | Location | Land Use | Projected | | Comparison With Noise Level Limit |
|------|-----------------------|-------------|----------------------|-------------------|-----------------------------------|
| | | | Adjusted Limit (Leq) | Noise Level (Leq) | |
| 1 | Big Canyon | Residential | 60.7 | 53.3 | Meets Ordinance |
| 2 | Park Newport | Residential | 67.7 | 50.6 | Meets Ordinance |
| 3 | NB Jaguar Parking Lot | Commercial | 65.0 | 64.8 | Meets Ordinance |
| 3A | NB Jaguar Building | Commercial | 65.0 | 59.1 | Meets Ordinance |
| 4 | San Joaquin Plaza | Commercial | 65.0 | 54.8 | Meets Ordinance |
| 5 | Harbor Cove | Residential | 60.8 | 42.6 | Meets Ordinance |

The data in Table 6 shows that the noise levels at all adjacent areas meet the daytime noise limits.

Table 7
PROJECTED NIGHTTIME NOISE LEVELS (dBA)
WITH REQUIRED MITIGATION MEASURES

| Site | Location | Land Use | Adjusted Limit (Leq) | Projected Noise Level (Leq) | Comparison With Noise Level Limit |
|------|-----------------------|-------------|----------------------|-----------------------------|-----------------------------------|
| 1 | Big Canyon | Residential | 50.0 | 49.6 | Meets Ordinance |
| 2 | Park Newport | Residential | 65.4 | 46.8 | Meets Ordinance |
| 3 | NB Jaguar Parking Lot | Commercial | 60.0 | 62.2 | Exceeds Ordinance |
| 3A | NB Jaguar Building | Commercial | 60.0 | 55.7 | Meets Ordinance |
| 4 | San Joaquin Plaza | Commercial | 60.0 | 51.3 | Meets Ordinance |
| 5 | Harbor Cove | Residential | 53.1 | 39.2 | Meets Ordinance |

* - The dealership is not expected to be open during the nighttime period

The data in Table 7 table shows that for each site except the Newport Beach Jaguar dealership parking lot, the resulting noise levels will be less than the applicable noise criteria. It should be noted that the dealership would not be expected to be operating after 10 p.m. Therefore, it is anticipated that with the recommended noise mitigation measures, the project will comply with the intent of the Noise Ordinance.

MacPt-Day (no mit)
Totals

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

| | | | | | | ORD | MEAS'D |
|-----------------------|---------------|----------|---------|------------------------|----------|-----|--------|
| | EXIT | ENTRANCE | VACUUM | | Standard | STD | AMB |
| SITE | END | END | NOZZLES | TOTAL | Applied | DAY | LEQ |
| Big Canyon | 51.2 | 36.6 | 48.8 | 53.3 | 60.7 | 55 | 60.7 |
| Park Newport | 46.5 | 41.7 | 47.4 | 50.6 | 67.7 | 55 | 67.7 |
| NB Jaguar - Open Area | 63.5 | 56.8 | 59.5 | 65.6 | 65.0 | 65 | 59.7 |
| NB Jaguar - Bldg | 54.6 | 54.8 | 53.5 | 59.1 | 65.0 | 65 | 59.7 |
| San Joaquin Plaza | 52.8 | 38.3 | 50.2 | 54.8 | 65.0 | 65 | 57.5 |
| Harbor Cove | 39.6 | 36.3 | 36.6 | 42.6 | 60.8 | 50 | 60.8 |
| MITIGATIONS | | | | | | | |
| | 0.0' Barr | | | Vacuum Station Barrier | | | |
| | No Mitigation | | | | | | |

MacPt-Day (no mit)
Exit End

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | | |
|---|------|--------|-----------|
| EXIT END 70.1 dBA LEQ (ave of two measurements) | | | |
| Sound Pressure Level of | 70.1 | dBA at | 50.0 feet |

| | |
|---------------------|------|
| Critical Freq. (Hz) | 1000 |
|---------------------|------|

| | |
|--------------------|------|
| Noise Level at 50' | 70.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 84.1 |
| 15 | 80.6 |
| 20 | 78.1 |
| 25 | 76.1 |
| 30 | 74.5 |
| 35 | 73.2 |
| 40 | 72.0 |
| 50 | 70.1 |
| 60 | 68.5 |
| 75 | 66.6 |
| 100 | 64.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 637 |
| 49 | 568 |
| 50 | 506 |
| 51 | 451 |
| 52 | 402 |
| 53 | 358 |
| 54 | 319 |
| 55 | 284 |
| 60 | 160 |
| 65 | 90 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-----------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 441 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 51.2 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 428 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 46.5 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 60 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 63.5 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 168 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 54.6 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 368 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 52.8 |
| Harbor Cove | 0.0 | 10 | 10.0 | 390 | 0 | 418 | 0.0 | 5 | 8.0 | 7.0 | 5.0 | 0.0 | 39.6 |

MacPt-Day (no mit)
Entrance End

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE INT SOURCE
Last Update: 10-2-09 Date: 10-2-09

| | | | |
|----------------------------|------|-----------|-----------|
| ENTRANCE END | | 70.1 - 10 | |
| Sound Pressure Level of | 60.1 | dBA at | 50.0 feet |
| -3 dB for 1/2 ops at night | | | |
| Critical Freq. (Hz) | 1000 | | |

| | |
|--------------------|------|
| Noise Level at 50' | 60.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 74.1 |
| 15 | 70.6 |
| 20 | 68.1 |
| 25 | 66.1 |
| 30 | 64.5 |
| 35 | 63.2 |
| 40 | 62.0 |
| 50 | 60.1 |
| 60 | 58.5 |
| 75 | 56.6 |
| 100 | 54.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 201 |
| 49 | 179 |
| 50 | 160 |
| 51 | 143 |
| 52 | 127 |
| 53 | 113 |
| 54 | 101 |
| 55 | 90 |
| 60 | 51 |
| 65 | 28 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 530 | 15.0 | 5 | 0.0 | 0.0 | 3.0 | 36.6 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 415 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 41.7 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 52 | 0.0 | 5 | 0.0 | 0.0 | 3.0 | 56.8 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 92 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 54.8 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 436 | 20.0 | 5 | 0.0 | 0.0 | 3.0 | 38.3 |
| Harbor Cove | 0.0 | 10 | 10.0 | 319 | 0 | 346 | 0.0 | 5 | 8.0 | 7.0 | 0.0 | 36.3 |

MacPt-Day (no mit)
Vacuum Nozzles

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | |
|-------------------------|------|------------------|
| VACUUM NOZZLES | 75.9 | each |
| Sound Pressure Level of | 78.9 | dBA at 12.0 feet |

| | |
|---------------------|------|
| Critical Freq. (Hz) | 1000 |
|---------------------|------|

| | |
|--------------------|------|
| Noise Level at 50' | 66.5 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 80.5 |
| 12 | 78.9 |
| 20 | 74.5 |
| 25 | 72.5 |
| 30 | 70.9 |
| 35 | 69.6 |
| 40 | 68.4 |
| 50 | 66.5 |
| 60 | 64.9 |
| 75 | 63.0 |
| 100 | 60.5 |

| dBA | Dist. |
|-----|-------|
| 48 | 421 |
| 49 | 375 |
| 50 | 334 |
| 51 | 298 |
| 52 | 266 |
| 53 | 237 |
| 54 | 211 |
| 55 | 188 |
| 60 | 106 |
| 65 | 59 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit wall | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|----------------|-------------------|
| Big Canyon | 0.0 | 3 | 3.0 | 7 | 0 | 385 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 48.8 |
| Park Newport | 0.0 | 3 | 3.0 | 7 | 0 | 449 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 47.4 |
| NB Jaguar - Open Area | 0.0 | 3 | 3.0 | 7 | 0 | 112 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 59.5 |
| NB Jaguar - Bldg | 0.0 | 3 | 3.0 | 7 | 0 | 224 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 53.5 |
| San Joaquin Plaza | 0.0 | 3 | 3.0 | 7 | 0 | 325 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 50.2 |
| Harbor Cove | 0.0 | 3 | 3.0 | 440 | 0 | 470 | 0.0 | 5 | 8.0 | 7.4 | 3.0 | 0.0 | 36.6 |

MacPt-Day (with mit)
Totals

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

| SITE | EXIT END | ENTRANCE END | VACUUM NOZZLES | TOTAL | Standard Applied | ORD | MEAS'D |
|-----------------------|-------------|-----------------|-------------------|------------------------|---------------------|------------|-------------------|
| | | | | | | STD DAY | AMB LEQ DAY |
| Big Canyon | 51.2 | 36.6 | 48.8 | 53.3 | 60.7 | 55 | 60.7 |
| Park Newport | 46.5 | 41.7 | 47.4 | 50.6 | 67.7 | 55 | 67.7 |
| NB Jaguar - Open Area | 63.5 | 56.8 | 54.6 | 64.8 | 65.0 | 65 | 59.7 |
| NB Jaguar - Bldg | 54.6 | 54.8 | 53.5 | 59.1 | 65.0 | 65 | 59.7 |
| San Joaquin Plaza | 52.8 | 38.3 | 50.2 | 54.8 | 65.0 | 65 | 57.5 |
| Harbor Cove | 39.6 | 36.3 | 36.6 | 42.6 | 60.8 | 50 | 60.8 |
| MITIGATIONS | | | | Vacuum Station Barrier | | | |
| | 3.5' Barr | | | | | | |
| | | | | | | | |

MacPt-Day (with mit)
Exit End

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | | |
|---|------|--------|-----------|
| EXIT END 70.1 dBA LEQ (ave of two measurements) | | | |
| Sound Pressure Level of | 70.1 | dBA at | 50.0 feet |

| | |
|---------------------|------|
| Critical Freq. (Hz) | 1000 |
|---------------------|------|

| | |
|--------------------|------|
| Noise Level at 50' | 70.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 84.1 |
| 15 | 80.6 |
| 20 | 78.1 |
| 25 | 76.1 |
| 30 | 74.5 |
| 35 | 73.2 |
| 40 | 72.0 |
| 50 | 70.1 |
| 60 | 68.5 |
| 75 | 66.6 |
| 100 | 64.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 637 |
| 49 | 568 |
| 50 | 506 |
| 51 | 451 |
| 52 | 402 |
| 53 | 358 |
| 54 | 319 |
| 55 | 284 |
| 60 | 160 |
| 65 | 90 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-----------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 441 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 51.2 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 428 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 46.5 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 60 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 63.5 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 168 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 54.6 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 368 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 52.8 |
| Harbor Cove | 0.0 | 10 | 10.0 | 390 | 0 | 418 | 0.0 | 5 | 8.0 | 7.0 | 5.0 | 0.0 | 39.6 |

MacPt-Day (with mit)
Entrance End

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE INT SOURCE
Last Update: 10-2-09 date: 10-2-09

| | |
|----------------------------|-----------------------|
| ENTRANCE END | 70.1 - 10 |
| Sound Pressure Level of | 60.1 dBA at 50.0 feet |
| -3 dB for 1/2 ops at night | |
| Critical Freq. (Hz) | 1000 |

| | |
|--------------------|------|
| Noise Level at 50' | 60.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 74.1 |
| 15 | 70.6 |
| 20 | 68.1 |
| 25 | 66.1 |
| 30 | 64.5 |
| 35 | 63.2 |
| 40 | 62.0 |
| 50 | 60.1 |
| 60 | 58.5 |
| 75 | 56.6 |
| 100 | 54.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 201 |
| 49 | 179 |
| 50 | 160 |
| 51 | 143 |
| 52 | 127 |
| 53 | 113 |
| 54 | 101 |
| 55 | 90 |
| 60 | 51 |
| 65 | 28 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 530 | 15.0 | 5 | 0.0 | 0.0 | 3.0 | 36.6 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 415 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 41.7 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 52 | 0.0 | 5 | 0.0 | 0.0 | 3.0 | 56.8 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 92 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 54.8 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 436 | 20.0 | 5 | 0.0 | 0.0 | 3.0 | 38.3 |
| Harbor Cove | 0.0 | 10 | 10.0 | 319 | 0 | 346 | 0.0 | 5 | 8.0 | 7.0 | 0.0 | 36.3 |

MacPt-Day (with mit)
Vacuum Nozzles

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | |
|-------------------------|------|------------------|
| VACUUM NOZZLES | 75.9 | each |
| Sound Pressure Level of | 78.9 | dBa at 12.0 feet |
| 2 units simul. | | |
| Critical Freq. (Hz) | 1000 | |

| | |
|--------------------|------|
| Noise Level at 50' | 66.5 |
|--------------------|------|

| Dist. | dBa |
|-------|------|
| 10 | 80.5 |
| 12 | 78.9 |
| 20 | 74.5 |
| 25 | 72.5 |
| 30 | 70.9 |
| 35 | 69.6 |
| 40 | 68.4 |
| 50 | 66.5 |
| 60 | 64.9 |
| 75 | 63.0 |
| 100 | 60.5 |

| dBa | Dist. |
|-----|-------|
| 48 | 421 |
| 49 | 375 |
| 50 | 334 |
| 51 | 298 |
| 52 | 266 |
| 53 | 237 |
| 54 | 211 |
| 55 | 188 |
| 60 | 106 |
| 65 | 59 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit wall | Noise Level (dBa) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|----------------|-------------------|
| Big Canyon | 0.0 | 3 | 3.0 | 7 | 0 | 385 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 48.8 |
| Park Newport | 0.0 | 3 | 3.0 | 7 | 0 | 449 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 47.4 |
| NB Jaguar - Open Area | 0.0 | 3 | 3.0 | 7 | 0 | 112 | 0.0 | 5 | 3.5 | 4.9 | 0.0 | 0.0 | 54.6 |
| NB Jaguar - Bldg | 0.0 | 3 | 3.0 | 7 | 0 | 224 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 53.5 |
| San Joaquin Plaza | 0.0 | 3 | 3.0 | 7 | 0 | 325 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 50.2 |
| Harbor Cove | 0.0 | 3 | 3.0 | 440 | 0 | 470 | 0.0 | 5 | 8.0 | 7.4 | 3.0 | 0.0 | 36.6 |

MacPt-Night (no mit)
Totals

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

| SITE | EXIT END | ENTRANCE END | VACUUM NOZZLES | TOTAL | Standard Applied | ORD | MEAS'D |
|-----------------------|---------------|---------------------------|-------------------|---------------------------------|---------------------|--------------|---------------------|
| | | | | | | STD NIGHT | AMB LEQ NIGHT |
| Big Canyon | 48.2 | 0.0 insignificant (FG) | 44.0 | 49.60 | 50.0 | 50 | 45.9 |
| Park Newport | 43.5 | 38.7 | 42.7 | 46.8 | 65.4 | 50 | 65.4 |
| NB Jaguar - Open Area | 60.5 | 56.8 | 51.7 | 62.4 * * - not open at night | 60.0 | 60 | 49.2 |
| NB Jaguar - Bldg | 51.6 | 51.8 | 48.7 | 55.7 | 60.0 | 60 | 49.2 |
| San Joaquin Plaza | 49.8 | 35.3 | 45.5 | 51.3 | 60.0 | 60 | 44.3 |
| Harbor Cove | 36.6 | 33.3 | 31.8 | 39.2 | 53.1 | 50 | 53.1 |
| MITIGATIONS | | | | Vacuum Station Barrier | | | |
| | 0.0' Barr | | | | | | |
| | No Mitigation | | | | | | |

MacPt-Night (no mit)
Exit End

Jumboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | | |
|---|------|--------|-----------|
| EXIT END 70.1 dBA LEQ (ave of two measurements) | | | |
| Sound Pressure Level of | 67.1 | dBA at | 50.0 feet |
| -3 dB for 1/2 ops at night | | | |
| Critical Freq. (Hz) | 1000 | | |

| | |
|--------------------|------|
| Noise Level at 50' | 67.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 81.1 |
| 15 | 77.6 |
| 20 | 75.1 |
| 25 | 73.1 |
| 30 | 71.5 |
| 35 | 70.2 |
| 40 | 69.0 |
| 50 | 67.1 |
| 60 | 65.5 |
| 75 | 63.6 |
| 100 | 61.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 451 |
| 49 | 402 |
| 50 | 358 |
| 51 | 319 |
| 52 | 284 |
| 53 | 253 |
| 54 | 226 |
| 55 | 201 |
| 60 | 113 |
| 65 | 64 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-----------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 441 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 48.2 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 428 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 43.5 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 60 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 60.5 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 168 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 51.6 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 368 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 49.8 |
| Harbor Cove | 0.0 | 10 | 10.0 | 390 | 0 | 418 | 0.0 | 5 | 8.0 | 7.0 | 5.0 | 0.0 | 36.6 |

MacPt-Night (no mit)
Entrance End

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE, November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE INT SOURCE
Last Update: 10-2-09 Date: 10-2-09

| | | | |
|----------------------------|------|---------------|-----------|
| ENTRANCE END | | 70.1 - 10 - 3 | |
| Sound Pressure Level of | 57.1 | dBA at | 50.0 feet |
| -3 dB for 1/2 ops at night | | | |
| Critical Freq. (Hz) | 1000 | | |

| | |
|--------------------|------|
| Noise Level at 50' | 57.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 71.1 |
| 15 | 67.6 |
| 20 | 65.1 |
| 25 | 63.1 |
| 30 | 61.5 |
| 35 | 60.2 |
| 40 | 59.0 |
| 50 | 57.1 |
| 60 | 55.5 |
| 75 | 53.6 |
| 100 | 51.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 143 |
| 49 | 127 |
| 50 | 113 |
| 51 | 101 |
| 52 | 90 |
| 53 | 80 |
| 54 | 71 |
| 55 | 64 |
| 60 | 36 |
| 65 | 20 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 530 | 15.0 | 5 | 0.0 | 0.0 | 3.0 | 33.6 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 415 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 38.7 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 52 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 56.8 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 92 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 51.8 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 436 | 20.0 | 5 | 0.0 | 0.0 | 3.0 | 35.3 |
| Harbor Cove | 0.0 | 10 | 10.0 | 319 | 0 | 346 | 0.0 | 5 | 8.0 | 7.0 | 0.0 | 33.3 |

MacPt-Night (no mit)
Vacuum Nozzles

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | |
|---------------------------------|------|------------------|
| VACUUM NOZZLES | 75.9 | each |
| Sound Pressure Level of | 74.1 | dBA at 12.0 feet |
| with -1.76 for 10 min out of 15 | | |
| Critical Freq. (Hz) | 1000 | |

| |
|--|
| adjustment for vacuum operating 10 minutes out of 15 |
| -1.76091 |

| | |
|--------------------|------|
| Noise Level at 50' | 61.7 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 75.7 |
| 12 | 74.1 |
| 20 | 69.7 |
| 25 | 67.8 |
| 30 | 66.2 |
| 35 | 64.8 |
| 40 | 63.7 |
| 50 | 61.7 |
| 60 | 60.2 |
| 75 | 58.2 |
| 100 | 55.7 |

| dBA | Dist. |
|-----|-------|
| 48 | 243 |
| 49 | 217 |
| 50 | 193 |
| 51 | 172 |
| 52 | 154 |
| 53 | 137 |
| 54 | 122 |
| 55 | 109 |
| 60 | 61 |
| 65 | 34 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-----------|-------------------|
| Big Canyon | 0.0 | 3 | 3.0 | 7 | 0 | 385 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 44.0 |
| Park Newport | 0.0 | 3 | 3.0 | 7 | 0 | 449 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 42.7 |
| NB Jaguar - Open Area | 0.0 | 3 | 3.0 | 7 | 0 | 112 | 0.0 | 5 | 0.0 | 0.0 | 3.0 | 0.0 | 51.7 |
| NB Jaguar - Bldg | 0.0 | 3 | 3.0 | 7 | 0 | 224 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 48.7 |
| San Joaquin Plaza | 0.0 | 3 | 3.0 | 7 | 0 | 325 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 45.5 |
| Harbor Cove | 0.0 | 3 | 3.0 | 440 | 0 | 470 | 0.0 | 5 | 8.0 | 7.4 | 3.0 | 0.0 | 31.8 |

MacPt-Night (with mit)
Totals

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

| | | | | | | | MEAS'D AMB LEQ NIGHT |
|-----------------------|-------------|---------------------------|-------------------|---------------------------------|---------------------|---------------------|-------------------------------|
| SITE | EXIT END | ENTRANCE END | VACUUM NOZZLES | TOTAL | Standard Applied | ORD STD NIGHT | |
| Big Canyon | 48.2 | 0.0 insignificant (FG) | 44.0 | 49.60 | 50.0 | 50 | 45.9 |
| Park Newport | 43.5 | 38.7 | 42.7 | 46.8 | 65.4 | 50 | 65.4 |
| NB Jaguar - Open Area | 60.5 | 56.8 | 46.8 | 62.2 * * - not open at night | 60.0 | 60 | 49.2 |
| NB Jaguar - Bldg | 51.6 | 51.8 | 48.7 | 55.7 | 60.0 | 60 | 49.2 |
| San Joaquin Plaza | 49.8 | 35.3 | 45.5 | 51.3 | 60.0 | 60 | 44.3 |
| Harbor Cove | 36.6 | 33.3 | 31.8 | 39.2 | 53.1 | 50 | 53.1 |
| MITIGATIONS | | | | | | | |
| | 3.5' Barr | | | Vacuum Station Barrier | | | |
| | | | | | | | |

MacPt-Night (with mit)
Exit End

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | | | |
|----------------------------|--|-----|----|-----------|
| EXIT END | 70.1 dBA LEQ (ave of two measurements) | | | |
| Sound Pressure Level of | 67.1 | dBA | at | 50.0 feet |
| -3 dB for 1/2 ops at night | | | | |
| Critical Freq. (Hz) | 1000 | | | |

| | |
|--------------------|------|
| Noise Level at 50' | 67.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 81.1 |
| 15 | 77.6 |
| 20 | 75.1 |
| 25 | 73.1 |
| 30 | 71.5 |
| 35 | 70.2 |
| 40 | 69.0 |
| 50 | 67.1 |
| 60 | 65.5 |
| 75 | 63.6 |
| 100 | 61.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 451 |
| 49 | 402 |
| 50 | 358 |
| 51 | 319 |
| 52 | 284 |
| 53 | 253 |
| 54 | 226 |
| 55 | 201 |
| 60 | 113 |
| 65 | 64 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-----------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 441 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 48.2 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 428 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 43.5 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 60 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 60.5 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 168 | 0.0 | 5 | 0.0 | 0.0 | 5.0 | 0.0 | 51.6 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 368 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 49.8 |
| Harbor Cove | 0.0 | 10 | 10.0 | 390 | 0 | 418 | 0.0 | 5 | 8.0 | 7.0 | 5.0 | 0.0 | 36.6 |

MacPt-Night (with mit)
Entrance End

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE INT SOURCE
Last Update: 10-2-09 date: 10-2-09

| | | | | |
|----------------------------|------|---------------|------|------|
| ENTRANCE END | | 70.1 - 10 - 3 | | |
| Sound Pressure Level of | 57.1 | dBA at | 50.0 | feet |
| -3 dB for 1/2 ops at night | | | | |
| Critical Freq. (Hz) | 1000 | | | |

| | |
|--------------------|------|
| Noise Level at 50' | 57.1 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 71.1 |
| 15 | 67.6 |
| 20 | 65.1 |
| 25 | 63.1 |
| 30 | 61.5 |
| 35 | 60.2 |
| 40 | 59.0 |
| 50 | 57.1 |
| 60 | 55.5 |
| 75 | 53.6 |
| 100 | 51.1 |

| dBA | Dist. |
|-----|-------|
| 48 | 143 |
| 49 | 127 |
| 50 | 113 |
| 51 | 101 |
| 52 | 90 |
| 53 | 80 |
| 54 | 71 |
| 55 | 64 |
| 60 | 36 |
| 65 | 20 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-------------------|
| Big Canyon | 0.0 | 10 | 10.0 | 7 | 0 | 530 | 15.0 | 5 | 0.0 | 0.0 | 3.0 | 33.6 |
| Park Newport | 0.0 | 10 | 10.0 | 7 | 0 | 415 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 38.7 |
| NB Jaguar - Open Area | 0.0 | 10 | 10.0 | 7 | 0 | 52 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 56.8 |
| NB Jaguar - Bldg | 0.0 | 10 | 10.0 | 7 | 0 | 92 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 51.8 |
| San Joaquin Plaza | 0.0 | 10 | 10.0 | 7 | 0 | 436 | 20.0 | 5 | 0.0 | 0.0 | 3.0 | 35.3 |
| Harbor Cove | 0.0 | 10 | 10.0 | 319 | 0 | 346 | 0.0 | 5 | 8.0 | 7.0 | 0.0 | 33.3 |

MacPt-Night (with mit)
Vacuum Nozzles

Jamboree Chevron Car Wash, Newport Beach
City of Newport Beach - Kay Sims
PROJECT #512901-0200
FRED / MIKE; November 2010

BARRIER PREDICTION WORKSHEET, POINT SOURCE
Last Update: 10-2-09

| | | |
|---------------------------------|------|------------------|
| VACUUM NOZZLES | 75.9 | each |
| Sound Pressure Level of | 74.1 | dBA at 12.0 feet |
| with -1.76 for 10 min out of 15 | | |
| Critical Freq. (Hz) | 1000 | |

| |
|--|
| adjustment for vacuum operating 10 minutes out of 15 |
| -1.76091 |

| | |
|--------------------|------|
| Noise Level at 50' | 61.7 |
|--------------------|------|

| Dist. | dBA |
|-------|------|
| 10 | 75.7 |
| 12 | 74.1 |
| 20 | 69.7 |
| 25 | 67.8 |
| 30 | 66.2 |
| 35 | 64.8 |
| 40 | 63.7 |
| 50 | 61.7 |
| 60 | 60.2 |
| 75 | 58.2 |
| 100 | 55.7 |

| dBA | Dist. |
|-----|-------|
| 48 | 243 |
| 49 | 217 |
| 50 | 193 |
| 51 | 172 |
| 52 | 154 |
| 53 | 137 |
| 54 | 122 |
| 55 | 109 |
| 60 | 61 |
| 65 | 34 |

| Location | Car Wash Elevation | Source Ht | Source Elevation | Distance To Wall | Base Of Wall | Dist. To Observer | Pad Elevation | Observer Height | Wall Height | Barrier Reduction | Self Shield | Add'l Mit | Noise Level (dBA) |
|-----------------------|--------------------|-----------|------------------|------------------|--------------|-------------------|---------------|-----------------|-------------|-------------------|-------------|-----------|-------------------|
| Big Canyon | 0.0 | 3 | 3.0 | 7 | 0 | 385 | 15.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 44.0 |
| Park Newport | 0.0 | 3 | 3.0 | 7 | 0 | 449 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 42.7 |
| NB Jaguar - Open Area | 0.0 | 3 | 3.0 | 7 | 0 | 112 | 0.0 | 5 | 3.5 | 4.9 | 3.0 | 0.0 | 46.8 |
| NB Jaguar - Bldg | 0.0 | 3 | 3.0 | 7 | 0 | 224 | 0.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 48.7 |
| San Joaquin Plaza | 0.0 | 3 | 3.0 | 7 | 0 | 325 | 20.0 | 5 | 0.0 | 0.0 | 0.0 | 0.0 | 45.5 |
| Harbor Cove | 0.0 | 3 | 3.0 | 440 | 0 | 470 | 0.0 | 5 | 8.0 | 7.4 | 3.0 | 0.0 | 31.8 |

Attachment No. PC 7

Police Department: Alcohol-Related
Statistics Report

**City of Newport Beach
Police Department**

M e m o r a n d u m

February 7, 2011

TO: Kay Sims, Planning Department

FROM: Detective Brian Haas

SUBJECT: Terrible Herbst, Inc. (Owner)
1550 Jamboree Road, UP 2008-051 (PA2008-165)

At your request, the Police Department has reviewed the project application for Terrible Herbst, Inc., located at 1550 Jamboree Road, Newport Beach. This location is currently operating as a Chevron Gas Station. The proposal consists of a remodel of the existing fuel/service station to remove all service bays in order to expand the convenience store and make exterior enhancements to the existing structure. The construction of a new automated car wash building will also be added at the rear of the site. In addition, the proposal includes a request to allow the sale of beer and wine from the convenience store.

The applicant will apply for a Type 20 (Beer & Wine) license with the Department of Alcoholic Beverage Control. The license will be conditioned appropriately to protect the health, safety and welfare of the community.

This location is within an area where the number of crimes is above the City wide reporting district average. This location is within an RD that is over the Orange County per capita of ABC licenses.

Applicant History:

The Terrible Herbst Corporation has been in business for over 60 years. They operate over 80 locations throughout Nevada, California, Arizona and Utah. These locations include gas stations/convenience stores, lubes and car wash facilities. They also own and operate three casinos in the State of Nevada.

Hours of Operation:

The gas station and convenience market would be operational 24 hours per day, 7 days per week. The automated car wash on the property would be operational from 7:00 a.m. to 10:00 p.m.

Security:

No recommendations from the Police Department.

Additional Comments:

The Police Department has no objection to the operation as described by the applicant.

Signs and Displays:

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

We also recommend that the displays, shelving, etc. be positioned in such a way that the clerk can be seen from outside the building.

Employee Training:

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Other Recommended Conditions:

In addition, the Police Department has determined that the following conditions would be appropriate for the Conditional Use Permit for the business:

1. No alcoholic beverages shall be consumed on any property adjacent to licensed premises under the control of the licensee.
2. The Petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as follows:

**NO LOITERING, NO LITTERING
NO DRINKING OF ALCOHOLIC BEVERAGES
VIOLATORS ARE SUBJECT TO ARREST**

The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.

3. Beer, malt beverages and wine coolers in containers of 16 oz. or less cannot be sold by single container, but must be sold in manufacturer pre-packaged multi-unit quantities.
4. Wine shall not be sold in bottles or containers smaller than 750 ml.
5. No person under the age of 21 shall sell or deliver alcoholic beverages.

6. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted.
7. No alcoholic beverages shall be sold between the hours of 2:00 a.m. and 6:00 a.m.

Alcoholic Beverage Control License

Upon approval of the CUP, the ABC license will be conditioned as necessary to maintain the health, safety and welfare of the community.

If you have any questions, please contact Detective Brian Haas at (949) 644-3709.



Brian Haas, Vice/Intel/ABC
Detective Division



Craig Fox, Captain
Detective Division Commander

City of Newport Beach

Police Department

Memorandum

February 22, 2011

TO: Kay Sims, Assistant Planner

FROM: Paul Salenko, Crime Analyst

SUBJECT: Alcohol Related Statistics

At your request, our office has reviewed police services data for the **Jamboree Chevron** at **1550 Jamboree Road**. This area encompasses our reporting district (RD) number 39 as well as part of Census Tract 630.08. This report reflects **City of Newport Beach** crime data for calendar year 2009, which is the most current data available.

Calls for Service Information

City wide there were approximately 69,294 calls for police services during this time, of which 5,213 were in RD39. A "call for service" is, *any contact of the police department by a citizen which results in the dispatching of a unit or causes the contacted employee to take some sort of action*, such as criminal investigations, alarm responses, traffic accidents, parking problems, and animal control calls, etc.

Crime Information

There were 6,194 crimes reported to the Newport Beach Police Department during this period. Of this total, 2,884 were Part One Crimes. Part One crimes are the eight most serious crimes (*Homicide, forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-theft, Auto Theft and Arson*) as defined by the FBI in the Uniform Crime Reports. The remaining 3,350 were Part Two crimes. The Part One crime rate for the entire city during this same period was 3,297.31 per 100,000 people. The national Part One crime rate was 3,465.52* per 100,000 people.

| Crimes | RD 39 | Newport Beach | California* | National* |
|-------------------|-----------|---------------|-------------|------------|
| Part 1 | 242 | 2,884 | 1,184,073 | 10,639,369 |
| Part 2 | 159 | 3,350 | N/A | N/A |
| Part 1 Crime Rate | 26,449.28 | 3,297.31 | 3,203.52 | 3,465.52 |

The number of active ABC licenses in this RD is 47**

Per capita ratio 1 license for every 19 residents.

This reporting district had a total of 461 reported crimes as compared to a City wide reporting district average of 162 reported crimes. This reporting district is 299 crimes over or 184.57% above the City wide reporting district average. This location is within an RD that is over the Orange County per capita average of ABC licenses**.

Arrest Information

There were 41 DUI arrests and 19 Plain Drunk arrest in this area during this same period as compared to 1,270 for the entire city. This RD amounts to 4.72% of the DUI/Drunk arrests made in the entire City. According to a recent national study by the Department of Justice, more than 36% of adult offenders convicted of crimes in 2009 had been drinking at the time of their arrest.

| Arrests (DUI/Drunk) | RD 39 60 | Newport Beach 1,270 | California* 324,442 | National* 2,095,731 |
|------------------------|-------------|------------------------|------------------------|------------------------|
| Total Arrests | 234 | 3,595 | 1,474,004 | 13,687,241 |

Additional Information

The Alcoholic Beverage Outlets ordinance states that the Planning Commission shall consider the crime rate in the adjacent reporting districts. The two adjacent reporting districts you requested are RD 44 and RD 43

| Crimes | RD 44 | RD 43 |
|-------------------------------------|----------------|-----------------|
| Part 1 | 143 | 23 |
| Part 2 | 146 | 17 |
| Crime Rate | 2,426.52 | 2,046.86 |
| Arrests (DUI/Drunk) | 80 | 6 |
| Total Arrests | 208 | 15 |
| Calls For Service | 4,661 | 2,046.86 |
| Number of active ABC licenses | 27** | 7** |
| Per capita ratio1 license for every | 218* residents | 161* residents. |

Note: It is important to remember that when dealing with small numbers any change greatly affects any percentage changes.

The population figure used for the Crime Rate was 86,252.

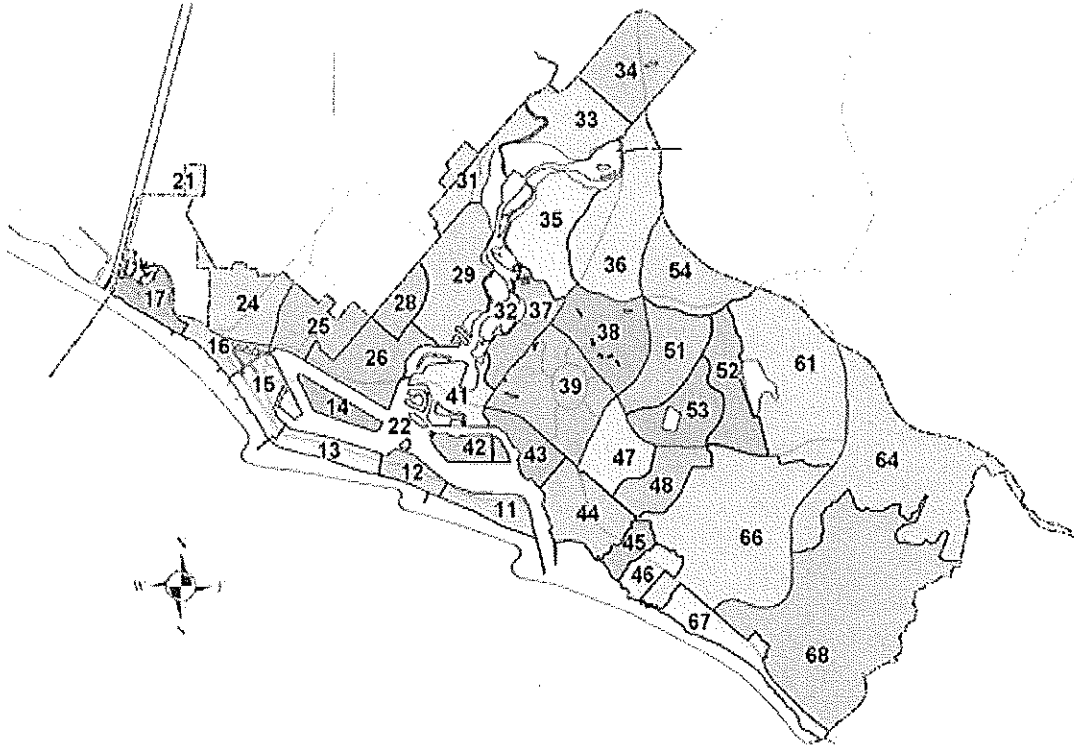
*These numbers are from the 2009 Uniform Crime Reports, which is the most recent edition.

**The number of active ABC licenses is the total of all types of licenses known to the police department as of the date of this document. As of June 30, 2009 the Orange County average of active, retail ABC licenses was 1 license for every 542 residents. (5,589 licenses and a population of 3,026,786)

If you are in need of any further assistance, please contact me at (949) 644-3791.

Paul Salenko
Crime Analysis Unit

Crime Reporting Districts



Attachment No. PC 8

Photos

















Attachment No. PC 9

Plans

1550 Jamboree Road, Newport Beach, CA 92660

RECEIVED BY
PLANNING DEPARTMENT
FEB 24 2011
CITY OF NEWPORT BEACH

Derivat Notes

1. The *shape* refers to the drawing is the property of ISA, and is not to be copied or faxed, in which a *print*, except an illustration for the content. Items or type of drawing is writing with ISA.
2. Do not write if it is blank printed ISA.
3. Do not duplicate.
4. All drawings are to be written unless noted otherwise.
5. The drawing is produced for control drawing must not be based on limited information and generic drawings. It should not be used for copying other than where permitted.
6. The drawing will confirmed by letter is issued in a Preliminary Drawing.

| USA print job | | Glenn applied to the company |
|---------------|-------|------------------------------|
| job 1 | color | red 0.1 |
| job 2 | color | blue 0.25 |
| job 3 | color | green 0.35 |
| job 4 | color | grey 0.5 |
| job 5 | color | black 0.9 |
| job 6 | color | purple 1.0 |
| job 7 | color | white 0.25 |

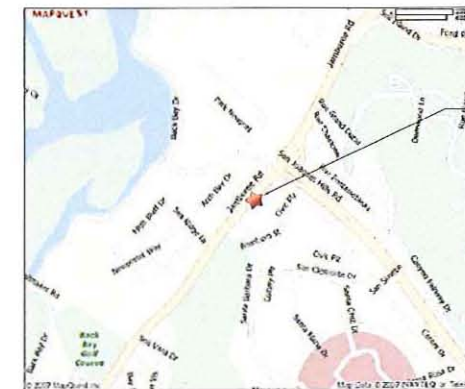
All other print jobs are to be 0.1. All to be done

| Rev | Date | Comments | Initial |
|-----|---------|----------------------------|---------|
| 1 | 3/05/09 | ISSUE TO IRVINE COMPANY | JBR |
| 2 | 4/01/09 | RE-ISSUE TO IRVINE COMPANY | JBR |
| 3 | 4/28/09 | RE-ISSUE TO IRVINE COMPANY | JWR |
| 4 | 8/25/09 | ARB SUBMITTAL | JWR |
| 5 | 8/17/09 | ARB RE-SUBMITTAL | |
| 6 | 8/18/09 | RE-ISSUE TO IRVINE COMPANY | SPD |
| 7 | 7/27/09 | ARB RE-SUBMITTAL | SPD |
| 8 | 8/24/09 | ARB RE-SUBMITTAL | SPD |
| 9 | 2/23/11 | CUP RE-SUBMITTAL | SPD |

SITE LOCATION

HARDSCAPE: 31,714 S.F.

CONTACT: ANDY WILKS
TELEPHONE: 949.754.0450
FAX: 949.754.0448

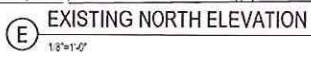
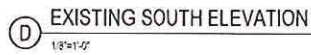
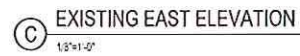


PROJECT SITE
1550 JAMBOREE ROAD
NEWPORT BEACH, CA 92660

- L-1 LANDSCAPE DEMO (SOUTHERN)
- L-2 LANDSCAPE DEMO (NORTHERN)
- L-3 LANDSCAPE IRRIGATION (SOUTHERN)
- L-4 LANDSCAPE IRRIGATION (NORTHERN)
- L-5 LANDSCAPE PLANTING (SOUTHERN)
- L-6 LANDSCAPE PLANTING (NORTHERN)
- L-7 LANDSCAPE LIGHTING
- L-8 IRRIGATION DETAILS
- L-9 PLANTING DETAILS
- L-10 IRRIGATION SPECIFICATIONS
- L-11 IRRIGATION SPECIFICATIONS
- L-12 PLANTING SPECIFICATIONS
- L-13 PLANTING SPECIFICATIONS
- L-14 PLANTING SPECIFICATIONS


| | | |
|----------|----------|---------|
| Job No | Dwg No | Rev |
| USA 0254 | A 0.0 | |
| Scale | Date | Drawn |
| | 02.23.11 | |
| | | Checked |

Ⓐ NOT USED
13"=1'-0"

[illegible][illegible]

Key Plan

This drawing has been converted from a metric format. yes / no

 SDA Partnership USA, Inc.
Architecture Estimating Interior Design Field Consultancy Graphic Design
4 Venture Suite 260 1-949-754-0450 F 949
Irvine, CA 92618 754-0448

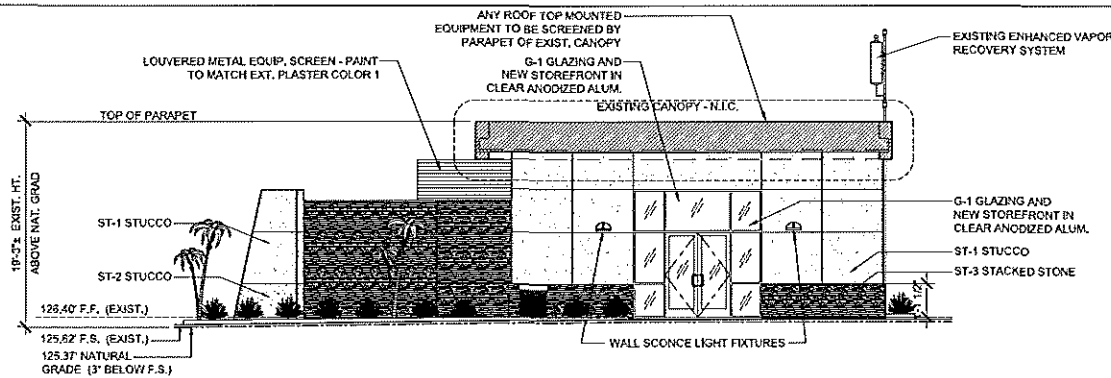
Project

CHEVRON STATION #9-3045
1550 JAMBOREE RD.
NEWPORT BEACH, CA 92660

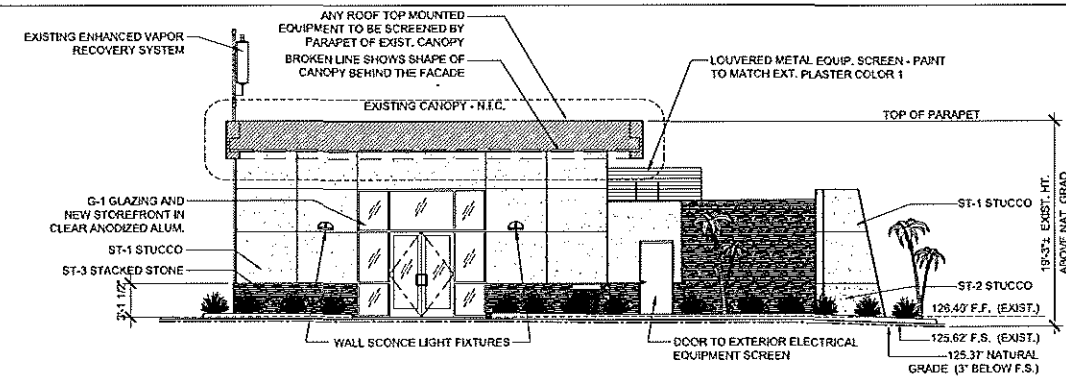
| |
|---------------------------------|
| Drawing Title |
| EXISTING EXTERIOR ELEVATIONS |

| | | | |
|----------------------|------------------|-----------------|---------|
| Job No USA 0254 | | Dwg No A 1.3 | Rev |
| Scale 1/16"=1'-0" | Date 02.23.11 | Drawn | Checked |

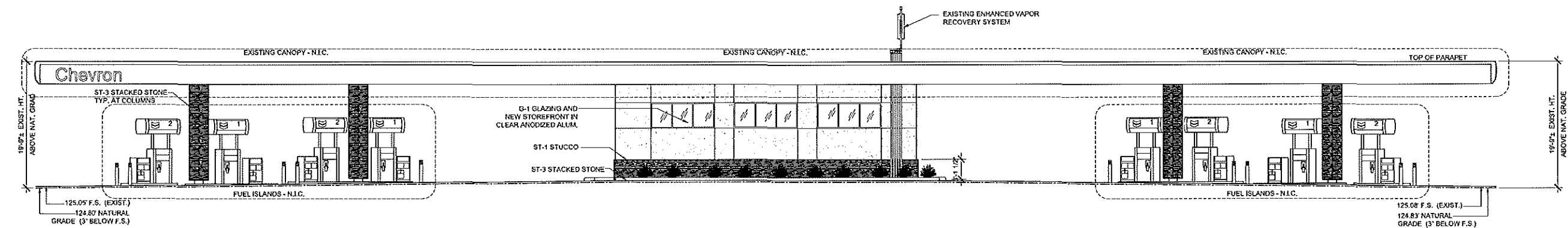
NOT USED
1/3"=1'-0"



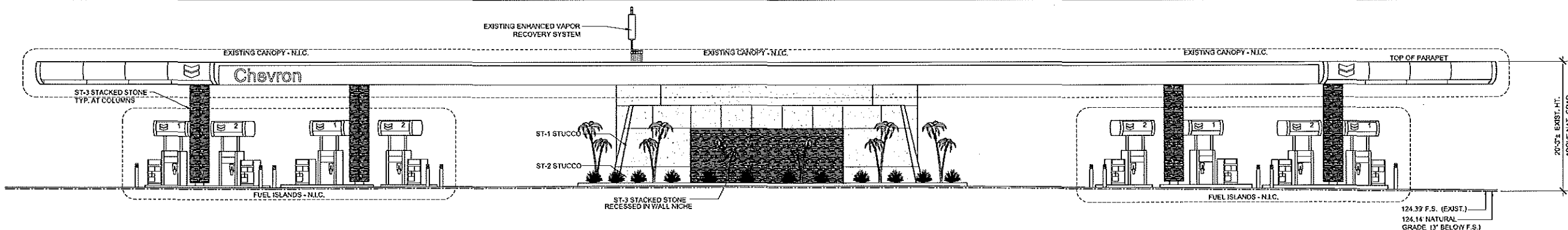
PROPOSED WEST ELEVATION (SIDE)



PROPOSED EAST ELEVATION (SIDE)



PROPOSED SOUTH ELEVATION (REAR)



PROPOSED NORTH ELEVATION (FRONT)

1. The design of the new strategy by the property of SCA, and is not to be used or discarded. In addition, it is not, except in accordance with a certain, known or approved in writing with SCA.

2. Do not make a design contact SCA.

3. Do not disclose.

4. All drawings are in black unless noted otherwise.

5. The drawing is prepared for specific design intent only. It is based on the design of the property of SCA, and is not to be used or discarded. In addition, it is not, except in accordance with a certain, known or approved in writing with SCA.

6. The drawing and content by SCA is based on the property of SCA.

7. USA and the design of the new strategy by the property of SCA, and is not to be used or discarded. In addition, it is not, except in accordance with a certain, known or approved in writing with SCA.


| part 1 | material | color | size |
|--------|----------|--------|------|
| part 1 | material | yellow | 0.1 |
| part 2 | material | green | 0.15 |
| part 3 | material | blue | 0.15 |
| part 4 | material | red | 0.15 |
| part 5 | material | orange | 0.15 |
| part 6 | material | purple | 0.15 |
| part 7 | material | black | 0.25 |

8. The drawing and content by SCA is based on the property of SCA.

[illegible]

Key Plan

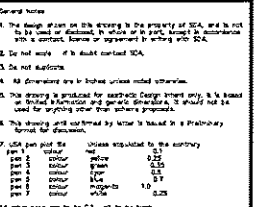
This drawing has been converted from a matrix format. jms / ms

 SDA Partnership USA, Inc.
Architecture Engineering Interior Design Retail Consultancy Graphic Design
8 Ventura Plaza, 293 1 848 754 0452 F 848
Irvine, CA 92618 724 0448

Project
CHEVRON STATION #9-3045
1550 JAMBOREE RD.
NEWPORT BEACH, CA 92660

Drawing Title
**PROPOSED EXTERIOR
ELEVATIONS**

| | | |
|---------------------|------------------|------------------|
| Job No USA 0254 | Dwg No A2.3 | Rev |
| Scale 1/8"=1'-0" | Date 02/23/11 | Drawn Checked |



Key Plan

Project

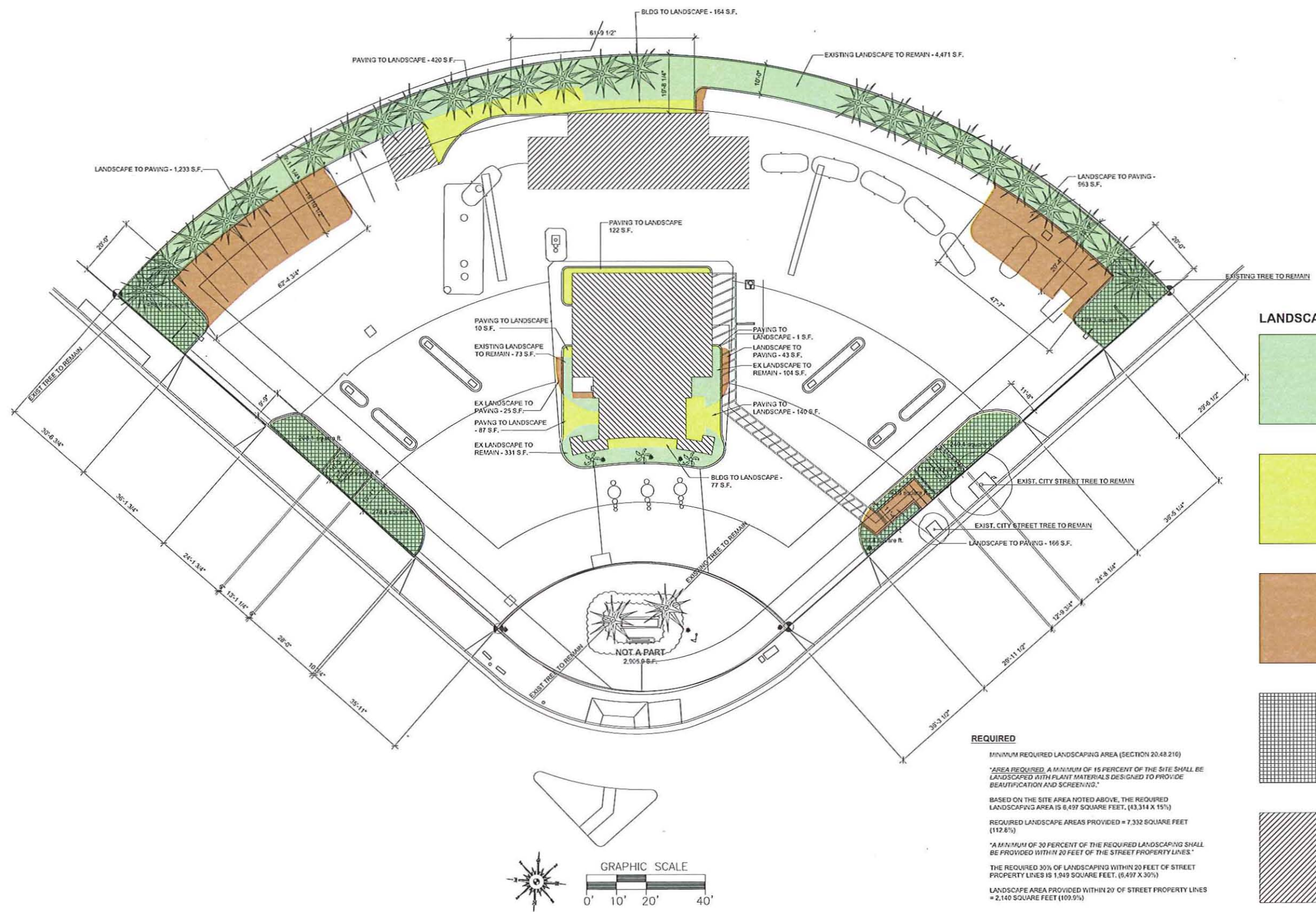
CHEVRON STATION #9-3045
1550 JAMBOREE RD.
NEWPORT BEACH, CA 92660

Drawing Title

PROPOSED FLOOR PLAN
CAR WASH

| | | |
|------------|----------|-------|
| Job No | Dwg No | Rev |
| USA 0254 | A2.4 | |
| Scale | Date | Drawn |
| 1/4"=1'-0" | 02.23.11 | |

(A) PROPOSED FLOOR PLAN - CAR WASH



LANDSCAPE AREAS LEGEND

- INDICATES EXISTING LANDSCAPE AREA TO REMAIN
- INDICATES NEW LANDSCAPE AREA CREATED
- INDICATES EXISTING LANDSCAPE AREA TO BE REMOVED
- INDICATES REQUIRED LANDSCAPE AREA PROVIDED TO COMPLY WITH 15% OF THE REQUIRED 30% SITE LANDSCAPE AREA WITHIN 20'-0" OF STREET PROPERTY LINES
- INDICATES NEW BUILDING AREAS
- INDICATES EXISTING BUILDING AREAS

REQUIRED

MINIMUM REQUIRED LANDSCAPING AREA (SECTION 20.48.210)

"AREA REQUIRED A MINIMUM OF 15 PERCENT OF THE SITE SHALL BE LANDSCAPED WITH PLANT MATERIALS DESIGNED TO PROVIDE BEAUTIFICATION AND SCREENING."

BASED ON THE SITE AREA NOTED ABOVE, THE REQUIRED LANDSCAPING AREA IS 6,497 SQUARE FEET, (43,314 X 15%)

REQUIRED LANDSCAPE AREAS PROVIDED = 7,332 SQUARE FEET (112.6%)

"A MINIMUM OF 30 PERCENT OF THE REQUIRED LANDSCAPING SHALL BE PROVIDED WITHIN 20 FEET OF THE STREET PROPERTY LINES."

THE REQUIRED 30% OF LANDSCAPING WITHIN 20 FEET OF STREET PROPERTY LINES IS 1,949 SQUARE FEET, (6,497 X 30%)

LANDSCAPE AREA PROVIDED WITHIN 20' OF STREET PROPERTY LINES = 2,140 SQUARE FEET (109.9%)

A SITE PLAN
SCALE: 1/16" = 1'-0"

General Notes

- The design shown on this drawing is the property of SDA, and is not to be used or disclosed, in whole or in part, without the written consent of SDA.
- Do not make any field notes or changes to this drawing without the written consent of SDA.
- All dimensions are to be taken unless noted otherwise.
- This drawing is produced for the purpose of design only. It is not to be used for construction or other purposes. It is not to be used for any other purpose without the written consent of SDA.
- The drawing and all information herein is to be used in a preliminary manner for discussion.

| Rev | Date | Comments | By |
|-----|----------|----------------------------|------|
| 1 | 05.05.05 | ISSUE TO RIVINE COMPANY | J.B. |
| 2 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |
| 3 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |
| 4 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |
| 5 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |
| 6 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |
| 7 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |
| 8 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |
| 9 | 05.05.05 | RE-ISSUE TO RIVINE COMPANY | J.B. |

Key Plan

This drawing has been submitted with a metric format. page 2 of 2

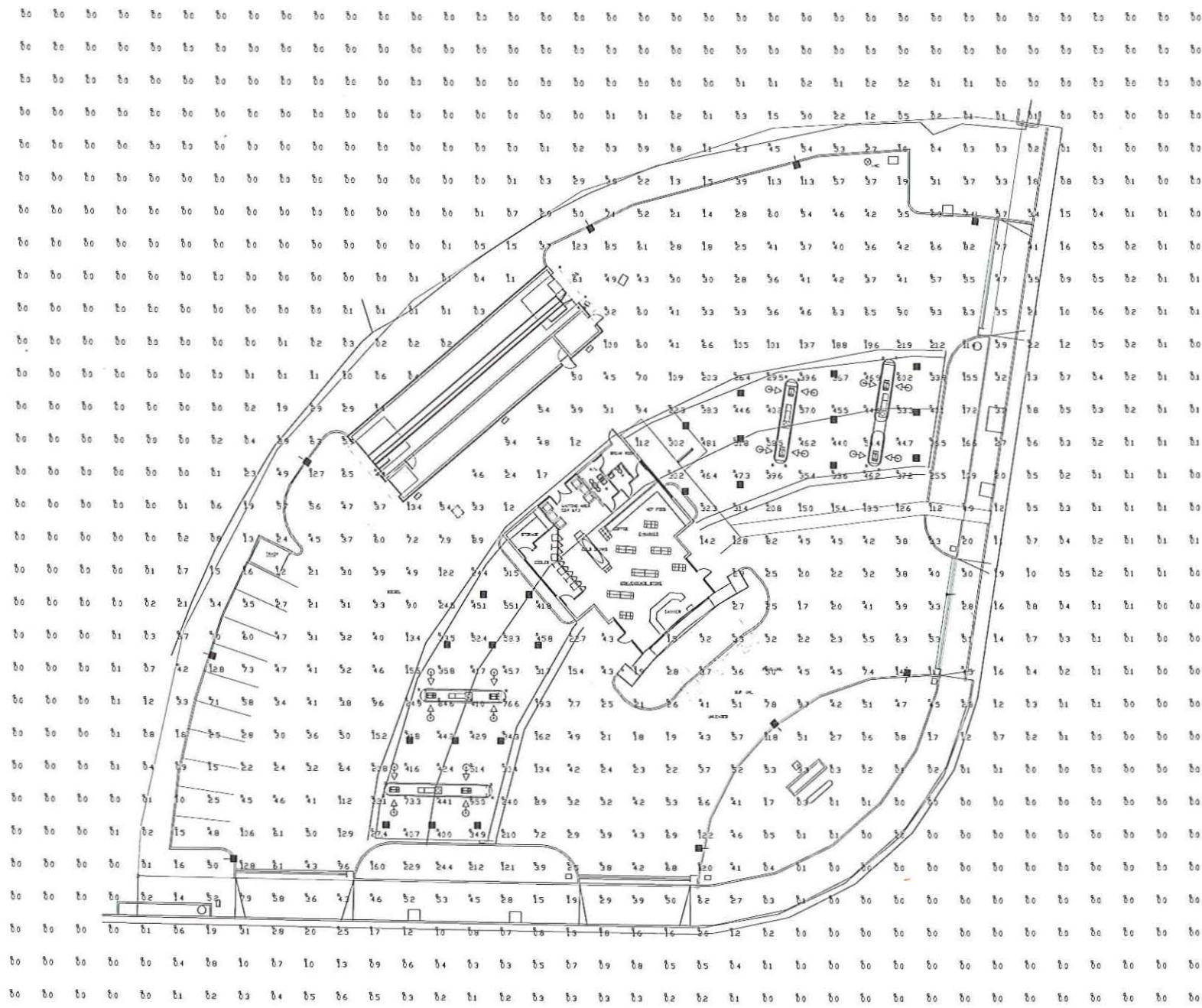
SDA Partnership USA, Inc.
Architecture/Engineering/Interior Design/Real Estate/Construction Management
4000 S. Main Street, Suite 200, San Diego, CA 92108
Tel: 619.594.1234 Fax: 619.594.1235

Project
CHEVRON STATION #9-3045
1550 JAMBOREE RD.
NEWPORT BEACH, CA 92660

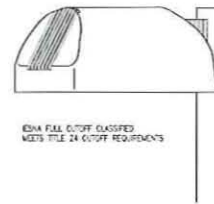
Drawing Title
PROPOSED LANDSCAPE AREAS EXHIBIT

| Job No. | Drawn | Rev |
|----------|-------|-----|
| USA-0254 | A2.5 | |

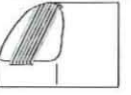
| Scale | Date | Drawn | Checked |
|--------------|----------|-------|---------|
| 1/8" = 1'-0" | 02/23/11 | | |



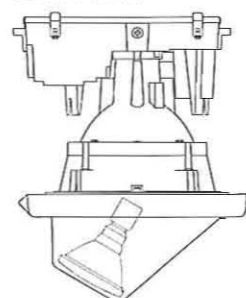
CHALLENGER



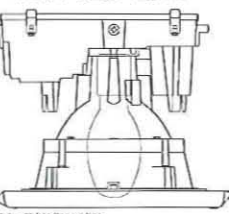
CHALLENGER WALL SCONCE



ECTA FOCUS



ECTA FLAT LENS



LAMP LAYOUT FOR 25' FLOOD

| WATTAGE | WATTAGE | WATTAGE | WATTAGE | WATTAGE | WATTAGE |
|---------|---------|---------|---------|---------|---------|
| 100 | 100 | 100 | 100 | 100 | 100 |
| 100 | 100 | 100 | 100 | 100 | 100 |
| 100 | 100 | 100 | 100 | 100 | 100 |
| 100 | 100 | 100 | 100 | 100 | 100 |
| 100 | 100 | 100 | 100 | 100 | 100 |

Title 24 Outdoor Power Allowance Calculation
LZone: 3

CHEVRON #9-3045
1550 JAMBREE RD
NEWPORT BEACH, CA
LO-90706
4/2/2008

| | Area (ft²) | Power Allowance (W/ft²) | Ref. Table | Allowed Wattage Estimate | Wattage Utilized |
|--|------------|-------------------------|------------|--------------------------|------------------|
| Total Area of Service Station | 34,585.00 | | | | |
| Service Station Dispensing Stations (canopies + fueling islands) | 5,900.00 | 1.45 | 147-B | 8,555 | 8,400 |
| Non-Sales Canopies | 0.00 | 0.5 | 147-B | 0 | 0 |
| Service Station Hardscape Area | 26,407.00 | 0.40 | 147-B | 10,563 | 3,942 |
| Buildings | 2,278.00 | | | | |
| Total | | | | 19,118 | 12,342 |

Energy tradeoffs are not permitted between the Hardscape, Service Station dispensing Stations, and Non-Sales Canopies. This calculation of outdoor power allowance is only an estimate. This information is provided as a courtesy and only includes wattage estimates for LSI Industries' products for the purpose of obtaining a Certificate of Compliance. The engineer and/or architect must determine applicability of this estimate to any existing or future field conditions.

Luminaire Schedule

| Symbol | Qty | Label | Arrangement | Lumens | LLF | Description | Total Watts |
|--------|-----|-------|-------------|--------|-------|------------------------------|-------------|
| ⊙ | 16 | A | SINGLE | 6000 | 0.720 | ECTA-SP-100-P-39-FD | 129 |
| ⊙ | 22 | B | SINGLE | 32000 | 0.720 | ECTA-S-350-FSHV-F | 289 |
| ⊙ | 9 | C | SINGLE | 35000 | 0.720 | CHH-FT-350-FSHV-F-S-20' FOLE | 369 |
| ⊙ | 3 | D | SINGLE | 12800 | 0.720 | CHV-FT-175-HH-HY | 212 |

Numeric Summary

| Label | Avg | Max | Min | Avg/Min | Max/Min |
|-----------------|-----|-----|-----|---------|---------|
| ALL CALC POINTS | 473 | 950 | 00 | NA | NA |

Statistical Area Summary

| Label | Avg | Max | Min | Avg/Min | Max/Min |
|-------------|------|-----|-----|---------|---------|
| CANOPY | 4472 | 950 | 112 | 359 | 848 |
| INSIDE CURB | 769 | 335 | 10 | 769 | 3350 |

Based on the information provided, all dimensions and luminaire locations shown represent recommended positions. The engineer and/or architect must determine applicability of the layout to existing or future field conditions. This lighting pattern represents illumination levels calculated from laboratory data taken under controlled conditions utilizing current industry standard lamp ratings in accordance with Illuminating Engineering Society approved methods. Actual performance of any manufacturer's luminaire may vary due to variation in electrical voltage, tolerance in lamps and other variable field conditions.

Total Watts = 12342

Revisions

| Rev. | Date | By |
|------|------|----|
| | | |

LSI INDUSTRIES™
LIGHTING PROPOSAL FOR
CHEVRON #9-3045
1550 JAMBREE RD
NEWPORT BEACH, CA
SCALE: 1/2"=1'-0"
DATE: 04-08
BY: MVE

LO-90706
SHEET 1 OF 1



PLANNING COMMISSION MEETING
MARCH 3, 2011

Chevron Service Station
1550 Jamboree Road



ARCH BAY DR

JAMBOREE RD

SAN JOAQUIN HILLS RD

RUE FONTAINEBLEAU

RUE CHATEAU ROYAL

SAN JOAQUIN PLZ



Approvals Requested:

Conditional Use Permit to allow:

- ▣ expansion of the convenience market
- ▣ addition of an automated car wash
- ▣ off-site beer and wine sales (Type 20)
- ▣ waiver of the landscaping standards for:
 - a. a deviation from the required number of trees on each street frontage (7 are required, 2 are provided)









| TREES | REQUIRED | PROVIDED |
|--------------|-----------------|-----------------|
|--------------|-----------------|-----------------|

| | | |
|-------|----|----|
| Total | 27 | 27 |
|-------|----|----|

on site

| | | |
|----------|----|----|
| Interior | 13 | 25 |
|----------|----|----|

prop. lines

| | | |
|--------|----|---|
| Street | 14 | 4 |
|--------|----|---|

prop. lines

| SHRUBS | REQUIRED | PROVIDED |
|---------------|-----------------|-----------------|
|---------------|-----------------|-----------------|

| | | |
|-------|----|-----|
| Total | 78 | 154 |
|-------|----|-----|

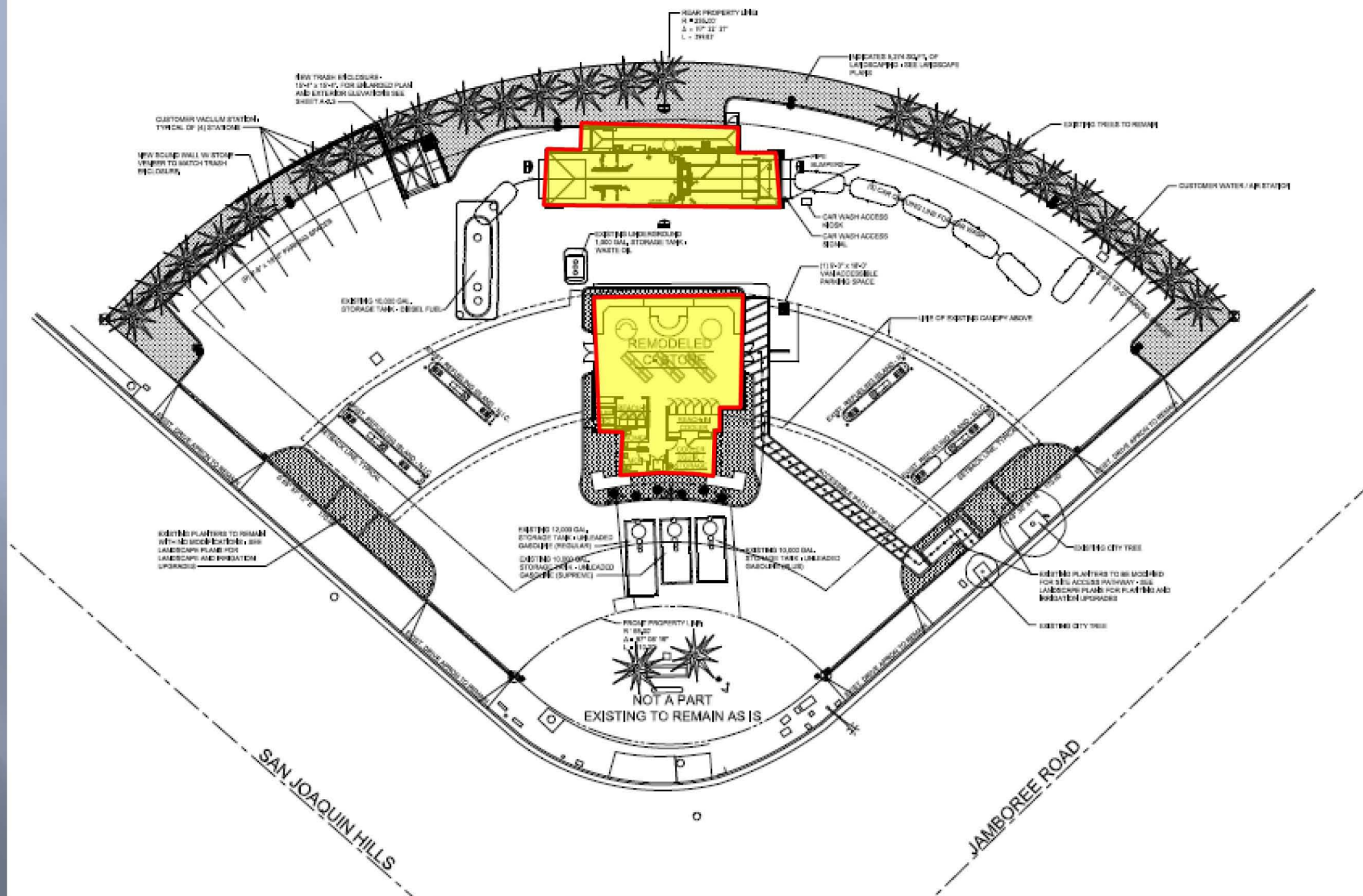
on site

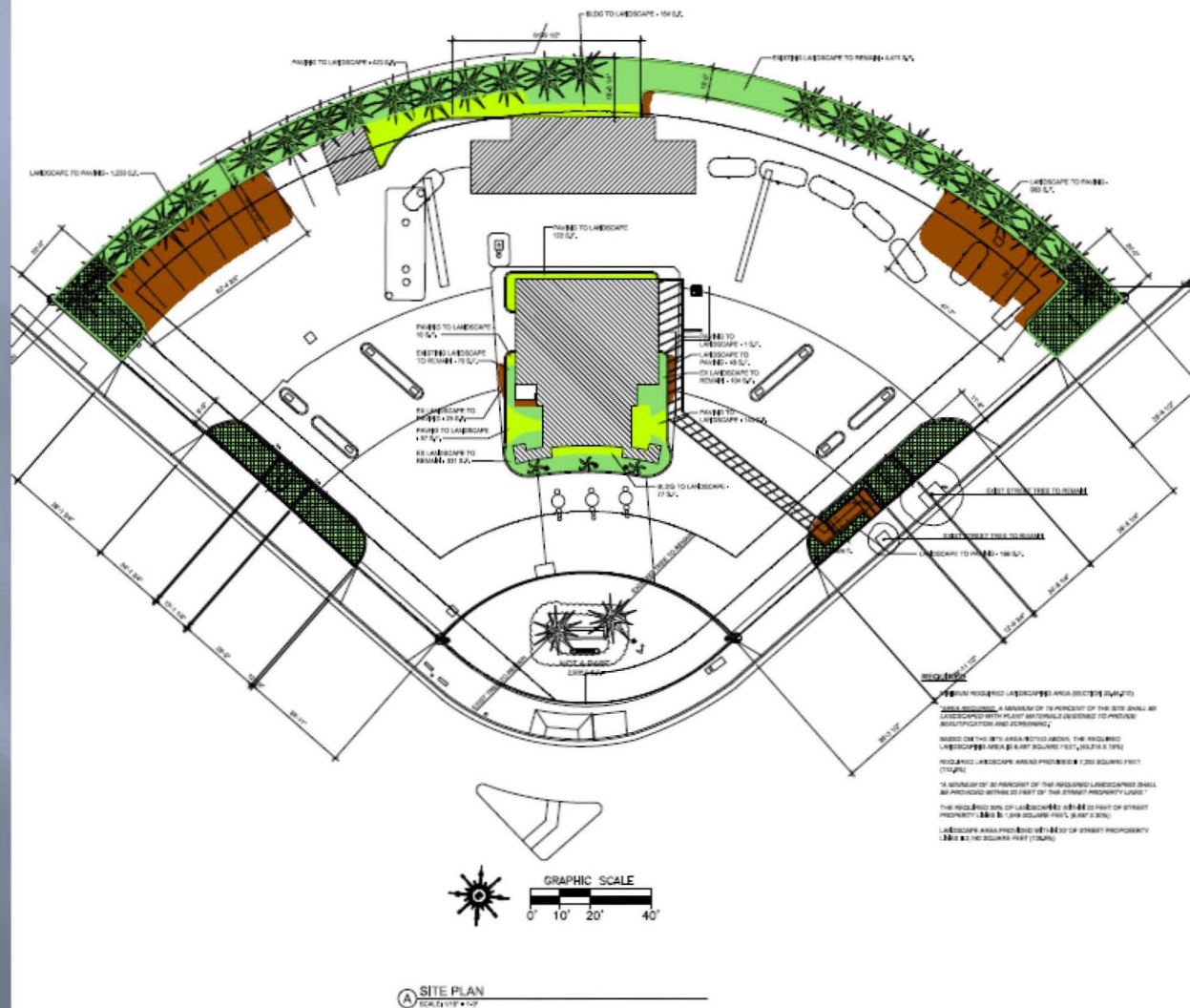
| | | |
|----------|----|----|
| Interior | 37 | 37 |
|----------|----|----|

prop. lines

| | | |
|--------|----|-----|
| Street | 41 | 117 |
|--------|----|-----|

prop. lines











"The final landscaping plan shall be subject to review and approval of the Planning Division prior to issuance of a building permit."

**CITY OF NEWPORT BEACH
PLANNING COMMISSION MEETING**

March 3, 2011 Hearing
Agenda Item 4

SUBJECT: Crow Burger Kitchen Appeal - (PA2010-155)
3107 Newport Boulevard
▪ Minor Use Permit No. UP2010-036

APPLICANT: Steve Geary

PLANNER: Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

PROJECT SUMMARY

An appeal of the Zoning Administrator's approval of Minor Use Permit No. UP2010-036 allowing an eating and drinking establishment (food service with no late hours) with a covered patio and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license.

RECOMMENDATION

- 1) Conduct a de novo hearing; and
- 2) Adopt Resolution No. ____ denying the appeal and upholding and affirming the decision of the Zoning Administrator to approve Minor Use Permit No. UP2010-036, subject to the findings and conditions of approval in the draft resolution (Attachment No. PC 1).

DISCUSSION

Zoning Administrator Action

The Zoning Administrator held a public hearing on January 13, 2010. The application was continued to January 27, 2011 to allow the applicant time to provide an acoustical summary that addressed the potential noise impacts of customers on the outdoor patio to nearby residents. The Zoning Administrator approved the Minor Use Permit application on January 27, 2011, and the hours of operation for the outdoor patio were limited from 9:00 a.m. to 10:00 p.m. The staff report and action letter from the Zoning Administrator hearing have been attached for reference (Attachment Nos. PC 2 and 3).

On February 7, 2011, Planning Commissioner Charles Unsworth appealed the approval of the Minor Use Permit. Commissioner Unsworth's appeal cited the process by which the project was approved, the service of alcoholic beverages on the outdoor patio, and

DATE TIME NAME

VICINITY MAP



GENERAL PLAN



ZONING



| LOCATION | GENERAL PLAN | ZONING | CURRENT USE |
|----------|--|---|--|
| ON-SITE | CN (Neighborhood Commercial) | CN (Commercial Neighborhood) | Vacant |
| NORTH | RT (Two-Unit Residential) | R-2 (Two-Unit Residential) | Single-unit and two-unit dwellings |
| SOUTH | PF (Public Facilities) and RT (Two-Unit Residential) | PF (Public Facilities) and R-2 (Two-Unit Residential) | Retail, public parking lot, and single-unit and two-unit dwellings |
| EAST | CV (Visitor Serving Commercial) | CV (Visitor Serving Commercial) | Retail |
| WEST | RT (Two-Unit Residential) | R-2 (Two-Unit Residential) | Single-unit and two-unit dwellings |

the applicability of the newly enacted Operator License Ordinance for the subject establishment.

On February 9, 2011, Planning Commissioner Robert Hawkins filed a second appeal of the approval of the Minor Use Permit. Commissioner Hawkins' appeal statement cited the process by which the project was approved, the service of alcoholic beverages on the outdoor patio, the applicability of certain Section 20.48.030 (Alcohol Sales) of the Zoning Code, square footage and parking for the subject establishment in relation to the overall shopping center, and a typographical error in the Zoning Administrator action letter.

Planning Commission Review Hearing

Pursuant to Section 20.64.030.C of the Zoning Code, a public hearing on an appeal is conducted "de novo", meaning that it is a new hearing and the prior decision of the Zoning Administrator to approve Use Permit No. UP2010-036 has no force or effect. The Planning Commission is not bound by the Zoning Administrator's prior decision or limited to the issues raised by the appeal.

Analysis

A memorandum from Planning Commissioner Charles Unsworth requesting an appeal of the subject application is attached (Attachment No. PC 4). The analysis below summarizes Commissioner Unsworth's requests to review the Minor Use Permit approved by the Zoning Administrator and provides staff's responses for the Planning Commission's consideration.

Use Permit Review Process

- 1. Condition No. 6 of Exhibit A, Conditions of Approval, of Planning Commission Resolution No. 1826 for the Landing Project, which was passed, approved, and adopted December 9, 2010, provides as follows: "All Eating and drinking establishments will be required to obtain separate use permits. Any separate discretionary approvals will regulate the operation of the specific use within the project site. Nothing in this resolution and or conditions ensures any square footage for any restaurant use or application." That condition was imposed under authority of the Zoning Code ("Old Zoning Code"), which was in effect prior to the adoption of the new Zoning Code. The Old Zoning Code and Condition No. 6 required a use permit to be granted by the Planning Commission as opposed to a minor use permit authorized by the new Zoning Code. The adoption of the new Zoning Code did not change the intent or legal effect of Condition No. 6. Therefore, a use permit for the captioned Project must be granted by the Planning Commission, not a minor use permit by the Zoning Administrator or Planning Director."*

While Planning Commission Resolution No. 1826 was approved under the prior, "Old", Zoning Code requirements, the conditions of approval do not specifically require the

approval of the Planning Commission. Subsequent use permit applications are not required to be processed under the prior Zoning Code requirements.

The subject Minor Use Permit was deemed complete on December 22, 2010 and processed pursuant to the application requirements of the current Zoning Code, which allow an eating and drinking establishment with alcohol service and no late hours (after 11:00 p.m.) to be processed with a minor use permit. Therefore, the subject application has complied with the conditions of approval as required by Planning Commission Resolution No. 1826.

Alcohol Service on the Outdoor Patio

2. *The Use Permit for the Chipotle restaurant (Use Permit No. 1827) located within the Landing was also approved on December 9, 2010. Service of alcohol was prohibited in its outdoor dining area. Prior to granting the captioned Use Permit, the Planning Commission should hear evidence as to why one applicant should be allowed and one applicant not allowed the right to serve alcohol in its outdoor dining area. The Zoning Administrator's decision did not substantiate such a distinction.*

The use permit and outdoor dining permit applications for Chipotle Mexican Grill, Use Permit No. UP2010-017 and Outdoor Dining Permit No. OD2010-004 (PA2010-096), were processed under the prior Zoning Code, which required Planning Commission review and approval. Alcohol service on the outdoor patio was not a part of the applicant's request for this particular application. As a result, the application was not reviewed to allow alcohol service on the outdoor patio and the project was conditioned accordingly.

The subject application for Crow Burger, Minor Use Permit No. 2010-036, did include a request for alcohol service on the outdoor patio. Thus, the application was reviewed by the Planning Department and the Police Department accordingly. Potential land use and noise conflicts were analyzed in addition to the potential for an increase in demand on police services. The conditions of approval in the draft resolution reflect the standards recommended by both departments to reduce the potential impacts of alcohol service on the outdoor patio to the greatest extent possible.

Operator License Ordinance

3. *Prior to granting any rights to serve alcohol in outdoor dining areas and/or establishing hours of operations for serving alcohol, the Planning Commission should be fully apprised of the impact and relationship between the proposed Use Permit or any other use permit or minor use permit and the newly enacted Operator License Ordinance.*

The Operator License Ordinance, Zoning Code Amendment No. CA2011-002 (PA2010-041), was adopted on January 25, 2011, and became effective on February 24, 2011.

The ordinance requires establishments that offer alcoholic beverages for on-site consumption in combination with late hours, entertainment, or dancing to obtain an operator license. The subject application is not subject to the newly enacted Operator License Ordinance because the applicant does not propose late hours of operation (after 11:00 p.m.), live entertainment, or dancing at the subject establishment.

A memorandum from Planning Commissioner Robert Hawkins also requesting an appeal of the subject application is attached (Attachment No. PC 5). The analysis below summarizes Commissioner Hawkin's requests to review the Minor Use Permit approved by the Zoning Administrator and provides staff's responses for the Planning Commission's consideration.

Planning Commission Review

1. *"The Commission understood that as Chairman McDaniel said, that when the developer brings other applications, we (the Planning Commission) will have an opportunity to hear it [the use permit applications for subsequent applications]. Finding B, which states, 'All eating and drinking establishments will be required to obtain separate use permits' cannot be made."*

At the Planning Commission hearing of December 9, 2010, the application for Crow Burger, which was still in process at the time, would have required a conditional use permit and review by the Planning Commission under the current Zoning Code because the applicant proposed late hours of operation (after 11:00 p.m.). The applicant later revised the proposed hours of operation and Planning Commission review was not required under the current Zoning Code.

The conditions of approval for Amendment No. 1 to Use Permit No. UP2010-002 (PA2010-166) (the Landing Shopping Center) require separate use permit approvals for eating and drinking establishments within the shopping center. However, the conditions do not specifically state that a conditional use permit reviewed by the Planning Commission is required for each individual eating and drinking establishment. Each new application will be reviewed by the decision-making authority specified by the current Zoning Code.

Applicability of Section 20.48.030 of the Zoning Code

2. *"The facts in support of Finding B [in the Zoning Administrator Action Letter] state: 'The service of beer and wine is intended for the convenience of customers dining at the restaurant.' This fact does not support the suggested finding because Section 20.48.030 forbids consumption of alcohol on-site. Section 20.48.030 addresses off sale alcohol uses such as liquor stores. Because the findings cannot be made for Section 20.48.030, uses and such uses conflict with the applicant's desired uses, this finding is inappropriate."*

Section 20.48.030 of the Zoning Code (Alcohol Sales) provides standards for alcohol sales in general. Part A of this section is intended for off-sale alcohol sales establishments and is not intended to prohibit on-sale consumption of alcohol at all eating and drinking establishments throughout the City. On-sale alcohol service is permitted within approved outdoor dining areas per Section 20.48.090.B.1.a (Sales Activities) of the Zoning Code.

Section 20.48.090.F.3.c (On-sale Alcohol Sales) of the Zoning Code requires the review authority to make the findings referenced by Commissioner Hawkin's in Section 20.48.030.C.3 (Required Findings). The specific finding required by Section 20.48.030.C.3 states, "*the review authority shall find that the use is consistent with the purpose and intent of this Section.*" The purpose and intent of the section, explained in the paragraphs just below the subheading for Section 20.48.030, identifies that the purpose of the section is to preserve a healthy and safe environment for residents and businesses by establishing a set of consistent standards for the safe operation of retail alcohol sales establishments. The intent of the section is to prevent alcohol-related problems. The factors for consideration were discussed in the Zoning Administrator Staff Report (Attachment PC 2) and the required finding in addition to the standard use permit findings was included in the Zoning Administrator Action Letter (Attachment No. PC 3) and has also been incorporated into the draft resolution (Attachment No. PC 1).

Since Part A (Operating Standards) of Section 20.48.030 (Alcohol Sales) of the Zoning Code does not apply to the subject establishment, the proposed application is in compliance with the purpose and intent Section 20.48.030 as required by the findings identified in Section 20.48.090.F.3.c and the proposed use is not in conflict with the required Zoning Code sections.

Alcohol Service on the Outdoor Patio

3. *The presence of alcoholic beverages in the outdoor dining area is inconsistent with the General Plan, the Zoning Code, is incompatible with adjacent residential uses, and is detrimental to the health, safety, and welfare of the area and its residents. The captioned Use Permit's grant of alcohol consumption in the outdoor patio is unsound land use policy itself and conflicts with the General Plan). Findings C through G cannot be made because of the use of alcohol in the outdoor patio."*

Section 20.48.090.F.3.c (On-sale alcohol sales) of the Zoning Code requires the review authority to consider the potential impact of sensitive land uses within 100 feet of the proposed establishment, the proximity of other establishments selling alcoholic beverages for either off-site or on-site consumption, and to provide facts to support the findings in Section 20.48.030.C.3 (Required Findings).

The proximity of residential uses to the proposed outdoor patio was considered by staff and the Zoning Administrator. The Police Department recommended limiting the hours

of the outdoor patio to 10:00 p.m. to minimize noise to adjacent residents and the number of service calls to the establishment. The Minor Use Permit application was continued by the Zoning Administrator to allow the applicant to submit an acoustical summary (Attachment No. PC 6) that demonstrated the projected impact of noise from the outdoor patio on exterior noise standards measured at the property line adjacent to 32nd Street. As a result of these considerations, the Zoning Administrator limited the hours of operation for the outdoor patio from 9:00 a.m. to 10:00 p.m. to ensure compliance with the Zoning Code and General Plan policies with regard to sensitive land uses and noise.

Alcohol service on the accessory outdoor patio is characteristic of several restaurants in the Cannery Village/McFadden Square neighborhood. The seating configuration both inside and outside lend the establishment to fine dining with tables and chairs. The establishment does not lend itself to a bar or tavern because there is no bar or counter to serve patrons. Instead, patrons are to be served at a table configuration, which places an emphasis on the dining experience, with alcohol consumption as an accessory service. The adjacent tenant space, Chipotle, also provides on sale alcohol service but does not offer alcohol service on the outdoor patio adjacent to Newport Boulevard.

An analysis of the factors for consideration and the additional required finding per Section 20.48.030.C.3 are discussed in the Zoning Administrator staff report (Attachment No. PC 3).

As required by Section 20.48.090 (Eating and Drinking Establishments) of the Zoning Code, the outdoor patio area provides adequate barriers between the outdoor dining area and adjacent parking, pedestrian, and vehicular circulation areas. The proposed awning over the outdoor patio area is compatible with the architecture of the overall shopping center and will enhance the overall dining experience of the establishment.

Parking for the Outdoor Patio

4. *"The captioned Use Permit which is processed under the recently adopted Zoning Code appears to include outdoor dining as part of the use permit. However, it is unclear whether this outdoor dining grant ensures that the size of the outdoor dining will not overburden the parking at the Landing."*

The subject use permit includes both the interior dining and outdoor patio approvals as permitted under the current Zoning Code. An analysis of the parking for the proposed establishment is provided in the Zoning Administrator staff report (Attachment No. PC 3). The tracking tables, which demonstrate the square footage calculations for the interior dining and outdoor patio of the new eating and drinking establishment, are included as Attachment No. PC 9. The addition of the interior gross floor area combined with the outdoor patio square footage in excess of 25 percent of the net public area for the new establishment does not exceed the 15 percent limitation for eating and drinking

establishments within the shopping center. The proposed project, combined with previously permitted eating and drinking establishments, accounts for 54 percent of the of the gross floor area allotted for eating and drinking establishments.

Exterior Signage

5. *Condition No. 1 states, "the development shall be in substantial conformance with the approved site plan, floor plan, and building elevations dated with this date of approval." Although this is unclear, presumably it means the plans provided to the Zoning Administrator. Condition No. 25, states: "There shall be no exterior advertising or signs of any kind or type including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages." However, the building elevations show the advertising of beer: "Crow Burger Kitchen, find food + beer. This conflicts with Condition No. 25."*

Condition No. 48 of the Zoning Administrator Action Letter states, "All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.67 of the Newport Beach Municipal Code." Signage is not included in the subject Minor Use Permit approval. The colored exterior elevations provided in the Planning Department Action Report were for demonstrative purposes only and are not to be included as part of the final, approved set of plans. Exterior elevations for the Minor Use Permit approval were provided on a separate plan sheet, entitled A5.0. Note No. 3 on this plan sheet indicates that all tenant signage is under a separate permit.

The property owner has submitted an application for a comprehensive sign program at the shopping center and the Planning Department is currently reviewing the application for compliance with Zoning Code standards and use permit approvals for the shopping center. Thus, there will not be a conflict between the approved set of plans and Condition Nos. 1, 25, and 48.

Square Footage Calculation

6. *"Condition No. 4 requires that, 'The patio floor area in excess of the 25 percent allowance will be deducted from the 15 percent of gross floor area limitation for eating and drinking establishment uses.' The captioned decision fails to perform this deduction and fails to show the square footage which remains for other eating and drinking establishments. The captioned decision should be revised to include this calculation."*

The tracking tables, which demonstrate the square footage calculations for the new eating and drinking establishment, were provided as an attachment to the Zoning Administrator staff report, which was not scanned as a part of the weekly Planning Department Action Report. The tracking tables have been included in the Planning Commission staff report as Attachment No. PC 9.

At the Planning Commission meeting of December 9, 2010, the specific square footage language was left out of the condition of approval for Use Permit No. UP2010-017 (Chipotle), so as not to restrict the square footage to a specific tenant space within the shopping center. As a result, the subject application was conditioned accordingly. Should the Planning Commission wish to do so, the Planning Commission may revise Condition No. 4 to indicate the specific square footage allotted for the subject establishment as shown in the tracking tables.

Decision Date

7. *"The captioned decision lists the date of the decision as 'January 13, 2011. As indicated above, this is incorrect. As indicated on the attached Agenda for the January 27, 2011 Meeting of the Zoning Administrator, the hearing for the captioned action was noticed for January 13th but continued to January 27, 2011. Hence the appeals are timely and this typographical error should be corrected."*

The date as originally indicated on the action letter was a typographical error and has been corrected as shown in Attachment No. PC 3.

Summary

Staff recommends the Planning Commission uphold the Zoning Administrator's approval of the use permit per the conditions of approval provided in the attached draft resolution for a food service, eating and drinking establishment with a Type 41 (On Sale Beer and Wine, Eating Place) ABC license and an outdoor dining patio.

Alternatives

If the Planning Commission does not wish to sustain the decision of the Zoning Administrator, the Planning Commission may revise the conditions of approval or reverse the decision of the Zoning Administrator and deny the application. Should the Planning Commission choose to do so, staff will return with a resolution incorporating new findings and or/or conditions.

ENVIRONMENTAL REVIEW

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures). The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. This exemption also includes accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

The proposed project involves the establishment of a restaurant in an existing tenant space and the construction of a new outdoor patio. The proposed use is less than 2,500 square feet. Therefore, both the interior use and outdoor patio qualify for a categorical exemption under Class 3.

NOTICING

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:



Makana Nova, Assistant Planner

Submitted by:



Patrick J. Alford, Planning Manager

ATTACHMENTS

- PC 1 Draft Resolution
- PC 2 Zoning Administrator Staff Report
- PC 3 Zoning Administrator Action Letter
- PC 4 Commissioner Unsworth's Memorandum Requesting Appeal
- PC 5 Commissioner Hawkin's Memorandum Requesting Appeal
- PC 6 Acoustical Summary
- PC 7 Alcohol Related Statistics
- PC 8 Newport Beach Reporting Districts
- PC 9 Police Department Recommendation
- PC 10 The Landing Square Footage Tracking Tables
- PC 11 Project plans

Attachment No. PC 1

Draft Resolution

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2010-036 FOR A FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT WITH NO LATE HOURS, A COVERED OUTDOOR PATIO, AND A TYPE 41 (ON SALE BEER AND WINE, EATING PLACE) ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE LOCATED AT 3107 NEWPORT BOULEVARD (PA2010-155).

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Steve Geary, with respect to property located at 3107 Newport Boulevard, and legally described as Lots E, F, and H on Parcel Map, as per map filed in book 32, page 41 of Parcel Maps, in the office of the County Recorder in the County of Orange, together with that portion of Lake Avenue shown as Parcel "G" on said Parcel Map, vacated and abandoned by Resolution No. 1012 of the City Council of Newport Beach, recorded May 15, 1981 as Instrument No. 40308 in book 14079, page 939 of official records in the office of said County Recorder, also together with a portion of Section 28, Township 6 south, range 10 west, San Bernardino Meridian, as per Parcel Nos. 1, 2, and 3 of the official plat filed in the district land office August 4, 1980 requesting approval of a minor use permit.
2. The applicant proposes a food service, eating and drinking establishment with no late hours, a covered outdoor patio, and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license. The gross floor area of the establishment is 1,878 square feet, the interior net public area will be 650 square feet, and the outdoor patio will be 259 square feet in area. The establishment will provide a maximum of 42 interior seats and 22 seats on the patio. The hours of operation are from 9:00 a.m. to 11:00 p.m., daily and 9:00 a.m. to 10:00 p.m. for the outdoor patio. The property is located in the CN (Commercial Neighborhood) zoning district.
3. The subject property is located within the Commercial Neighborhood (CN) zoning district and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Neighborhood Commercial (CN).
5. A public hearing was held by the Zoning Administrator on January 13, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

6. A public hearing was held by the Zoning Administrator on January 27, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.
7. A public hearing was held appealing the Zoning Administrator's approval by the Planning Commission on March 3, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 3, (New Construction or Conversion of Small Structures). The Class 3 exemption includes a store, motel, office, restaurant or similar structure not involving significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. This exemption also includes accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The proposed project involves the establishment of a restaurant in an existing retail tenant space and the construction of a new outdoor patio. The proposed use is less than 2,500 square feet. Therefore, proposed use and outdoor patio qualifies for a categorical exemption under Class 3.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Subsection 20.48.030 (Alcohol Sales) of the Zoning Code.*

Facts in Support of Finding

- A-1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of beer and wine is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

B. The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding

- B-1. The General Plan land use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. An eating and drinking establishment with alcohol sales and accessory outdoor dining is a consistent use within this land use designation. Restaurant uses can be expected to be found in this area and similar locations and are complimentary to the surrounding commercial and residential uses.
- B-2. Eating and drinking establishments are common in the vicinity along the Balboa Peninsula and are frequented by visitors and residents alike. The establishment is compatible with the land uses permitted within the surrounding neighborhood. The new establishment will improve and revitalize the existing retail building and the surrounding neighborhood.
- B-4. The subject property is not part of a specific plan area.

Finding

C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding

- C-1. The site is located in the CN (Commercial Neighborhood) Zoning District. The CN zoning district is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed food service, eating and drinking establishment with beer and wine alcohol service and an outdoor patio is consistent with land uses permitted by the CN Zoning District.

Finding

D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

Facts in Support of Finding

- D-1. The operation of the restaurant will be restricted to the hours between 9:00 a.m. and 11:00 p.m., daily. The operation of the outdoor patio will be restricted to the hours between 9:00 a.m. and 10:00 p.m., daily.
- D-2. A restaurant has been operated in this location since 1971 pursuant to Use Permit No. 1551 and has not proven detrimental to the area. The tenant space within the shopping center has operated as an eating and drinking establishment in the past and demonstrated the location's capability of operating as a compatible use with other land uses in the vicinity.
- D-3. The project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible. The restaurant is oriented toward the parking lot and is located approximately 225 feet from residential properties across 32nd Street. The use permit has been conditioned to require the folding doors and the outdoor patio area to be closed by 10:00 p.m. so that the establishment will comply with exterior noise standards and shield the restaurant activity from the residential uses across 32nd Street. The applicant is also required to control trash and litter around the subject property.
- D-4. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a restaurant and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
- D-5. The applicant is required to install a grease interceptor, obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

Finding

- E. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding

- E-1. The project site is located within an existing retail building and the tenant space is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.
- E-2. Adequate public and emergency vehicle access, public services, and utilities are provided within the renovated shopping center.

- E-3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- F. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- F-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment. The outdoor patio and louvered folding doors must be closed by 10:00 p.m. to limit the exterior noise to the surrounding residents.
- F-2. The food service, eating and drinking establishment will serve the surrounding residential community. The proposed establishment will provide dining services as a public convenience to the surrounding neighborhood. This will revitalize the project site and provide an economic opportunity for the property owner to update the retail tenants and services, which best serve the quality of life for the surrounding residential community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies the appeal, upholding and affirming the decision of the Zoning Administrator, and approving Use Permit No. UP2010-036, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF MARCH, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Department Conditions

1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This Use Permit may be modified or revoked by the City Council, Planning Commission, or Zoning Administrator should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
4. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
5. Use Permit No. UP2010-036 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
6. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.

10. *Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for the outdoor dining area in excess of 25 percent of the interior net public area in accordance with Chapter 15.38 of the Newport Beach Municipal Code.*
11. *A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.*
12. *The hours of operation for the interior of the eating and drinking establishment are limited from 9:00 a.m. to 11:00 p.m., daily. The hours of operation for the outdoor patio are limited from 9:00 a.m. to 10:00 p.m., daily. All activities within the outdoor dining area, including cleanup activities, shall cease at the specified closing hour and no later.*
13. *The doors to the outdoor patio area shall be closed by 10:00 p.m., daily, to limit the impact of interior noise to residents in the vicinity.*
14. *[deleted]*
15. *Live entertainment and dancing shall be prohibited as a part of the regular operation.*
16. *A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Director and Public Works Director in conjunction with the approval of an alternate drainage plan.*
17. *The patio floor area in excess of the 25 percent allowance will be deducted from the 15 percent of gross floor area limitation for eating and drinking establishment uses.*
18. *The accessory outdoor dining shall be used only in conjunction with the related adjacent establishment.*
19. *The outdoor patio shall be limited to 259 square feet in area and provide seating for twenty two persons maximum.*
20. *The seating and dining in the outdoor area shall be limited to dining table height (approximately 30 inches) and table surface area of 24 inches by 30 inches minimum. The use of elevated counters, tables, and barstools are prohibited in the outdoor dining area.*
21. *Prior to issuance of building permits, plans for the outdoor dining/patio areas shall be reviewed and approved by the Planning Department. Final material, height, and location of the fence shall be subject to approval by the Building and Planning Department staff.*
22. *The boundary of the accessory outdoor dining area shall be marked through the use of a 36-inch-high rail as shown on the approved plans. Fences, walls, or similar barriers*

shall serve only to define the outdoor dining area and not constitute a permanent all weather enclosure.

23. *The material and color of any awning or umbrella located on the outdoor dining/patio areas shall be subject to review and approval by the Planning Department. No form of advertisement shall be placed on an awning, umbrella or elsewhere in the outdoor patio dining areas. The outdoor patio dining areas, including any awning or umbrella, shall be maintained in a clean orderly condition at all times.*
24. *The installation of roof coverings in addition to the proposed fabric awning shall not have the effect of creating a permanent enclosure. The use of umbrellas for shade purposes shall be permitted. The use of any other type of overhead covering shall be subject to review and approval by the Planning Director and may require an amendment to this permit.*
25. *There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.*
26. *The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 41 in conjunction with the service of food as the principal use of the facility.*
27. *All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.*
28. *This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.*
29. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.*
30. *No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.*
31. *The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based up on monies collected as a door charge, cover*

charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.

32. *The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on command.*
33. *There shall be no on-site radio television, video, film, or other electronic or media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.*
34. *Live entertainment and dancing shall be prohibited as a part of the regular operation of the establishment.*
35. *No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.*
36. *The approval is only for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, with the principal purpose for the sale or service of food and beverages with sale and service of alcoholic beverages incidental to the food use.*
37. *Full meal service shall be provided during all hours of operation.*
38. *Strict adherence to maximum occupancy limits is required.*
39. *A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.*
40. *Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.*
41. *The proprietor shall actively control any noise generated by the patrons of the facility.*
42. *The operator of the facility shall be responsible for the control of noise generated on the subject facility. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach*

Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time period unless the ambient noise level is higher:

| | Between the hours of 7:00AM and 10:00PM | | Between the hours of 10:00PM and 7:00AM | |
|--|---|----------|---|----------|
| Location | Interior | Exterior | Interior | Exterior |
| Residential Property | 45dBA | 55dBA | 40dBA | 50dBA |
| Residential Property located within 100 feet of a commercial property | 45dBA | 60dBA | 45dBA | 50dBA |
| Mixed Use Property | 45dBA | 60dBA | 45dBA | 50dBA |
| Commercial Property | N/A | 65dBA | N/A | 60dBA |

43. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
44. [deleted]
45. *No amplified music, outside paging system, loudspeaker or other noise generating device are permitted in conjunction with the outdoor dining area.*
46. No outside paging system shall be utilized in conjunction with this establishment.
47. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
48. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.67 of the Newport Beach Municipal Code.
49. No temporary "sandwich" signs or similar temporary signs shall be permitted, either on-site or off-site, to advertise the restaurant.
50. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
51. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of

neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.

52. Prior to the final of building permits, the refuse storage facilities should be upgraded to meet the requirements specified by Title 20 by providing self-locking gates.
53. The applicant shall provide a minimum of one common trash enclosure evenly distributed throughout the project site. The size, design and location of trash enclosures shall be subject to the review and approval of the Public Works and Planning Departments prior to issuance of a building permit for new construction. The enclosures shall be located on a four inch concrete pad screened by a six foot high decorative concrete block wall that is compatible with the architectural design of the residential buildings. The enclosures shall incorporate a cover of decorative beams or other roofing material to provide security and visual screening from above.
54. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
55. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
56. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
57. Prior to final of the building permits, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site and adjacent areas to the Planning Department for review. The building permit shall not be finalized and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the Newport Beach Municipal Code that includes issuance of a citation of violation and monetary fines.

58. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Planning Director, and may require an amendment to this use permit.
59. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
60. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Crow Burger Kitchen including, but not limited to Use Permit No. 2010-036 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building and Fire Department Conditions

61. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Department.
62. A building permit is required to allow the change in use to an eating and drinking establishment. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
63. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Department.
64. *The construction plans must meet all applicable State Disabilities Access requirements.*
65. *Approval from the Orange County Health Department is required prior to the issuance of a building permit.*
66. *A grease interceptor shall be installed prior to the establishment opening for business.*

67. *Complete sets of drawings including architectural, electrical, mechanical, and plumbing plans shall be required at plan check.*
68. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
69. *The applicant shall provide a Type I hood with a kitchen suppression system for cooking equipment.*
70. *Portable propane heaters shall be prohibited on the outdoor patio. Natural gas or electric heaters are allowed if installed per their listing and the California Electrical or Plumbing Code.*
71. The rear doors of the facility shall remain closed at all times. The use of the rear door shall be limited to deliveries and employee use only. Ingress and egress by patrons is prohibited unless there is an emergency.
72. All exits shall remain free of obstructions and available for ingress and egress at all times.
73. Strict adherence to maximum occupancy limits is required.

Public Works Department Conditions

74. County Sanitation District fees shall be paid prior to the issuance of any building permits.

Attachment No. PC 2

Zoning Administrator Staff Report

**CITY OF NEWPORT BEACH
ZONING ADMINISTRATOR HEARING**

January 13, 2011 Hearing
Agenda Item 4

SUBJECT: Crow Burger Kitchen Minor Use Permit - (PA2010-155)
3107 Newport Boulevard
▪ Minor Use Permit No. UP2010-036

APPLICANT: Steve Geary

PLANNER: Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

PROJECT SUMMARY

A minor use permit to allow a food service, eating and drinking establishment with no late hours, a covered outdoor dining patio, and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt the draft action letter approving Minor Use Permit No. UP2010-03636 subject to the findings and conditions in the attached draft action letter (Attachment No. ZA 1).

INTRODUCTION

Project Setting

The subject property is bounded by Newport Boulevard, Balboa Boulevard, 30th Street, and 32nd Street. The area in the vicinity of the project site is developed with residential uses across 30th Street, 32nd Street, and adjacent to the southwest corner of the property, retail and restaurant uses along Newport Boulevard, and a public parking lot to the south of the subject property.

Crow Burger Kitchen would occupy a tenant space at the east end of the old Albertson's shopping center where Kentucky Fried Chicken once operated. The shopping center is currently closed for renovation and will reopen next summer as "The Landing". Access to the existing shopping center is obtained through driveways along 32nd Street, Newport Boulevard and Balboa Boulevard. The area of the subject property is 163,786 square feet (approximately 3.76 acres).

VICINITY MAP



GENERAL PLAN



ZONING



| LOCATION | GENERAL PLAN | ZONING | CURRENT USE |
|----------|--|---|--|
| ON-SITE | CN (Neighborhood Commercial) | CN (Commercial Neighborhood) | Vacant |
| NORTH | RT (Two-Unit Residential) | R-2 (Two-Unit Residential) | Single-unit and two-unit dwellings |
| SOUTH | PF (Public Facilities) and RT (Two-Unit Residential) | PF (Public Facilities) and R-2 (Two-Unit Residential) | Retail, public parking lot, and single-unit and two-unit dwellings |
| EAST | CV (Visitor Serving Commercial) | CV (Visitor Serving Commercial) | Retail |
| WEST | RT (Two-Unit Residential) | R-2 (Two-Unit Residential) | Single-unit and two-unit dwellings |

Background

The shopping center was originally developed in 1960 and currently contains 41,363 square feet of floor area and 208 parking spaces on-site. A renovation of the existing shopping center was approved through Use Permit Nos. UP2009-035, UP2010-002, and Parcel Map No. NP2009-013 (PA2010-153) in February of 2010. Included in the approval was a waiver of five required off-street parking spaces through the approval of a parking management program.

The shopping center is currently vacant as it undergoes renovation. The floor area of the renovated center will total 47,928 square feet of floor area and provide 235 parking spaces. The shopping center will include a 2,515-square-foot addition along the western wing of the existing retail shops (Shops B), a new façade along the entire retail frontage facing 32nd street, a new, 4,000-square-foot bank building in the northwestern corner of the parking lot, and restriping and landscaping within the existing parking lot.

All prior permits for tenants of the existing shopping center are void and all new eating and drinking establishments require use permits. A new take-out service, eating and drinking establishment was approved December 9, 2010 for Chipotle Mexican Grill at the tenant space adjacent to the subject application (3101 Newport Boulevard) through Use Permit No. UP2010-015 and Outdoor Dining Permit No. OD2010-004.

Outdoor dining areas in excess of 25 percent of the interior net public area were not originally accounted for in the shopping center parking management plan. Amendment No. 1 to Use Permit No. UP2010-002 (PA2010-166) was approved December 9, 2010 to allow a waiver of three additional parking spaces through an amendment to the parking management program to allow for the three outdoor dining patios within the shopping center.

Project Description

The applicant requests approval of a minor use permit to allow a food service, eating and drinking establishment with no late hours, a covered outdoor patio, and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license. The gross floor area of the establishment is 1,878 square feet, the interior net public area will be 650 square feet, and the outdoor patio will be 259 square feet in area. The establishment will provide a maximum of 42 interior seats and 22 seats on the patio. The requested hours of operation are from 9:00 a.m. to 11:00 p.m., daily.

DISCUSSION

General Plan/Coastal Land Use Plan/Zoning

The Zoning District is Commercial Neighborhood (CN) and the General Plan Land Use Element category is Neighborhood Commercial (CN) for the subject property. The CN land use category is intended to provide for a range of retail and service uses developed

in one or more distinct centers oriented to primarily serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed eating and drinking establishment is consistent with this land use category.

Alcoholic Beverage Sales

The Police Department has prepared an Alcohol Related Statistics report (Attachment No. ZA 2) for the project site. The data from the Alcohol Related Statistics Report is incorporated into the factors for consideration, provided below.

Factors to Consider

Section 20.48.030 (Alcohol Sales) requires the Zoning Administrator to consider certain factors when making the required findings to approve the Use Permit. A discussion of these factors in support of the Use Permit is provided below.

- 1. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*

| Reporting District | Part One Crimes (Serious offenses) | Part Two Crimes (All other offenses) | Part One Crimes Rate (per 100,000 people) |
|--------------------|---------------------------------------|---|---|
| RD No. 15 | 343 | 242 | 11,506.43 |
| RD No. 13 | 112 | 79 | 5,812.62 |
| RD No. 16 | 167 | 107 | 6,003.49 |
| Newport Beach | 2,884 | 3,350 | 3,297.31 |

The establishment is located within Reporting District 15, which includes McFadden Square, Cannery Village, and Lido Marina Village. The Part One Crimes Rate in Reporting District 15 (RD 15) is higher than the Part One Crimes Rate for the City and adjacent districts (For a map of the City of Newport Beach Reporting Districts, see Attachment No. ZA 3). The crime rate in this reporting district is 484 percent above the City wide reporting district average. The higher crime rate within this reporting district is largely due to the number of visitors to the Balboa Peninsula, the high concentration of alcohol licenses, and high ratio of non-residential to residential uses in the area. While the proposed establishment is located in an area which has a very high concentration of alcohol licenses, staff feels it is appropriate to allow the proposed eating and drinking establishment within the renovated shopping center because it is designed to accommodate both restaurant and retail uses.

2. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and the adjacent reporting districts.*

| Reporting District | DUI/Drunk Arrests | Total Arrests | Calls for Service |
|--------------------|-------------------|---------------|-------------------|
| RD No. 15 | 361 | 796 | 6,663 |
| RD No. 13 | 39 | 161 | 2,554 |
| RD No. 16 | 110 | 323 | 3,261 |
| Newport Beach | 1,270 | 3,595 | 62,294 |

RD 15 has a higher number of DUI/Drunk Arrests, Total Arrests, and Calls for service recorded in 2009 compared to the adjacent reporting districts. From January 1, 2010 through November 30, 2010, the Police Department reported 30 calls for service to the subject property, 10 of which were fights or disturbance calls, eight of which were miscellaneous calls for medical aid, alarms, etc. and two of which were alcohol-related. Prior to renovation, the shopping center did not accommodate any uses which possessed ABC licenses allowing alcohol sales for on-site consumption. The existing shopping center has not been subject to a significant number of alcohol related calls for service in the past and the renovated shopping center has been designed to accommodate eating and drinking establishments such as Crow Burger Kitchen.

3. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

Residential properties are located 400 feet across 30th Street to the southwest, 220 feet across 32nd Street to the north, and 320 feet to the southwest of the subject tenant space. The proposed use is separated from nearby residences due to the location of the tenant space at the east end of the shopping center and faces the parking lot. The nearest recreational facility, the 32nd Street Beach, is located approximately 1,000 feet to the west of the subject property. The nearest church, St. James Anglican Church, is located 900 feet to the northeast of the subject property. The project site is not located in close proximity to a daycare center or school. The proposed use is surrounded by other commercial uses including several other eating and drinking establishments.

The Balboa Peninsula in general is characterized by a high number of visitors in which commercial and residential zoning districts are located in close proximity to one another. The draft action letter has been conditioned to minimize negative impacts that the proposed eating and drinking establishment may have to surrounding land uses and ensure that the use remains compatible with the surrounding community.

4. *The proximity of the other establishments selling alcoholic beverages for either off-site or on-site consumption.*

The location of the proposed establishment is in close proximity to several establishments with alcohol licenses including Chipotle, Malarky's Irish Pub, Rudy's, and Ho Sum Bistro. The Police Department has prepared an Alcohol Related Statistics report for the project site that indicates an over concentration of alcohol licenses within this statistical area.

| Reporting District | Active ABC License | Per Capita |
|--------------------|--------------------|---------------------|
| RD No. 15 | 79 | 1 per 38 residents |
| RD No. 13 | 6 | 1 per 321 residents |
| RD No. 16 | 6 | 1 per 464 residents |
| County-wide | 5,589 | 1 per 542 residents |

The per capita ratio of 1 license for every 38 residents is higher than the adjacent districts and the average ratio for Orange County. This is due to the higher concentration of commercial land uses and low number of residential properties (For a map of the City of Newport Beach Reporting Districts, see Attachment No. ZA 3). While the proposed establishment is located in close proximity to other establishments selling alcoholic beverages, the location of the proposed restaurant is within a retail shopping center which is designed for such uses.

5. *Whether or not the proposed amendment will resolve any current objectionable conditions.*

The Zoning District for the subject property specifies that the designated land use is intended to serve both residents and visitors. The shopping center and its close proximity to the beach and other commercial districts create a neighborhood focal point for both residents and visitors to stop and eat as they visit the Balboa Peninsula. Adding beer and wine to the menu will compliment the food service and provide for the convenience of customers. The draft action letter has been conditioned to limit objectionable conditions due to noise and trash at the subject establishment. The Police Department has no objections to the operation as proposed principally given the proposed hours of operation, license type, and overall size of the use.

The Police Department has reviewed the concentration and crime statistics and the potential impact of the proposed application on crime and police services and recommends approval of the establishment with a Type 41 ABC license with a closing hour of 10:00 p.m. for the establishment. This closing time will avoid increased crime and minimize the demand on police services in this area.

The Type 41 alcohol license and limited hours of operation effectively eliminate the conversion of the establishment into a late hour bar or tavern. The Police Department has provided recommended conditions of approval related to design and security of the

establishment. Refer to Attachment No. ZA 4 for a copy of the Police Department Recommendation. In addition, all employees serving alcohol will be required to be at least 21 years of age and receive ABC-required Licensee Education on Alcohol and Drugs (LEAD) training.

Outdoor Dining

The proposed establishment includes an outdoor dining patio that accommodates 22 seats. The interior of the establishment will open to the outdoor patio area through a series of louvered doors and the outdoor patio area is covered by an awning structure. The draft action letter has been conditioned to require the closure of the louvered doors by 10:00 p.m. to minimize the impacts of noise to the surrounding residential neighborhood. In addition, the draft action letter has been conditioned to limit the enclosure of the outdoor patio through the construction of temporary or permanent paneling so as not to create additional indoor gross floor area.

The applicant proposes the same business hours for the outdoor patio as the interior of the establishment, which would operate from 9:00 a.m. to 11:00 p.m. The Police Department has recommended a closing hour of 10:00 p.m. for the outdoor patio to minimize the impact of noise to the neighboring residential areas and reduce the impact that the alcohol license will have on the community, police related activities, and calls for police services. Planning Department staff has conditioned the draft action letter to require the closure of the louvered patio doors by 10:00 p.m. to minimize the impacts of noise to the surrounding residents. As a result, Planning Department staff feels this measure is sufficient to limit the potential impacts to the surrounding community and that the overall 11:00 p.m. closing hour will effectively mitigate the potential negative impacts identified by the Police Department.

Parking

The approved parking management plan requires that the shopping center be parked at a rate of one space per 200 square feet of gross floor area and allows for eating and drinking establishments to occupy a maximum 15 percent of the gross floor area. Crow Burger Kitchen is the second eating and drinking establishment to request authorization within the shopping center under renovation, and therefore it falls within the 15 percent allotted for eating and drinking establishments. The proposed project combined with previously permitted eating and drinking establishments accounts for 54 percent of the of the gross floor area allotted for eating and drinking establishments.

Amendment No. 1 to Use Permit No. UP2010-002 was approved on December 9, 2010 to allow a reduction in the required off-street parking by three parking spaces. Therefore, sufficient parking will be provided to allow for the outdoor patio areas in excess of the 25 percent of the interior net public area at Crow Burger. A square footage tracking table showing the approved square footage for Crow Burger in relation to the shopping center is provided as Attachment No. ZA 5.

Use Permit Findings

In accordance with Sections 20.52.020.F, the Zoning Administrator must make the following findings for approval:

1. The use is consistent with the General Plan and any applicable specific plan.
2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code.
3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.
4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.
5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

The proposed use is consistent with the General Plan, Local Coastal Program Coastal Land Use Plan, and Zoning Code. Adequate parking is provided for the project site within the parking pool provided for the shopping center. The hours of operation are compatible with uses in the area and the 11:00 p.m. closing hour will ensure the establishment does not operate as a late hour bar or lounge. Beer and wine will be provided as a convenience to the public, and operational conditions of approval have been included to ensure the restaurant is compatible with the surrounding neighborhood. Staff believes the findings for approval can be made and the facts in support of the required findings are presented in the draft action letter (Attachment No. ZA 1).

Summary

Staff recommends approval of a use permit per the conditions of approval provided in the attached draft action letter for a food service, eating and drinking establishment with a Type 41 (On Sale Beer and Wine, Eating Place) ABC license and an outdoor dining patio as requested.

Alternatives

If the Zoning Administrator does not believe the findings for approval can be made, the Zoning Administrator may deny the subject applications. In addition, the Zoning Administrator may approve a modified project or modify conditions of approval to

address areas of concern. Should the Zoning Administrator choose to do so, staff will return with a revised action letter incorporating new findings and/or conditions.

Environmental Review

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures). The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. This exemption also includes accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

The proposed project involves the establishment of a restaurant in an existing tenant space and the construction of a new outdoor patio. The proposed use is less than 2,500 square feet. Therefore, both the interior use and outdoor patio qualify for a categorical exemption under Class 3.

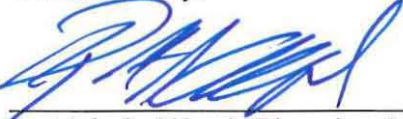
Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Makana Nova, Assistant Planner

Submitted by:


Patrick J. Alford, Planning Manager

ATTACHMENTS

- ZA 1 Draft Action Letter
- ZA 2 Alcohol Related Statistics
- ZA 3 Newport Beach Reporting Districts
- ZA 4 Police Department Recommendation
- ZA 5 The Landing Square Footage Tracking Table
- ZA 6 Project plans

Attachment No. PC 3

Zoning Administrator Action Letter



NOTICE OF ZONING ADMINISTRATOR ACTION

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

January 27, 2011

Steve Geary
2325 E. Coast Highway
Newport Beach, CA 92625

Application No. **Use Permit No. UP2010-036 (PA2010-155)**

Site Address **3107 Newport Boulevard**
 Crow Burger Kitchen Use Permit

On January 27, 2011, the Zoning Administrator approved the above referenced application based on the findings and conditions in the attached action letter.

By: 
Greg Ramirez, Zoning Administrator

GR/mn

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

cc:

property owner

Catellus

Attn: Sean Whiskeman
66 Franklin Street, #200
Oakland, CA 94607

contact

Architects Design Consortium Inc.

Attn: Craig Oka
4875 E. La Palma Avenue Suite 607
Anaheim, CA 92807



ZONING ADMINISTRATOR ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

| | |
|--------------------------|--|
| Application No. | Use Permit No. UP2010-036 (PA2010-155) |
| Applicant | Steve Geary |
| Site Address | 3107 Newport Boulevard Crow Burger Kitchen Use Permit |
| Legal Description | Lots E, F, and H on Parcel Map, as per map filed in book 32, page 41 of Parcel Maps, in the office of the County Recorder in the County of Orange, together with that portion of Lake Avenue shown as Parcel "G" on said Parcel Map, vacated and abandoned by Resolution No. 1012 of the City Council of Newport Beach, recorded May 15, 1981 as Instrument No. 40308 in book 14079, page 939 of official records in the office of said County Recorder, also together with a portion of Section 28, Township 6 south, range 10 west, San Bernardino Meridian, as per Parcel Nos. 1, 2, and 3 of the official plat filed in the district land office August 4, 1980 |

On **January 27, 2011**, the Zoning Administrator approved the following: A minor use permit to allow a food service, eating and drinking establishment with no late hours, a covered outdoor patio, and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license. The gross floor area of the establishment is 1,878 square feet, the interior net public area will be 650 square feet, and the outdoor patio will be 259 square feet in area. The establishment will provide a maximum of 42 interior seats and 22 seats on the patio. The hours of operation are from 9:00 a.m. to 11:00 p.m., daily and 9:00 a.m. to 10:00 p.m. for the outdoor patio. The property is located in the CN (Commercial Neighborhood) zoning district. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

REQUIRED FINDINGS

Finding

- A. *The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15303 of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures) of the Implementing Guidelines of the California Environmental Quality Act.*

Facts in Support of Finding

- A-1. The Class 3 exemption includes a store, motel, office, restaurant or similar structure not involving significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. This exemption also includes accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The proposed project involves the establishment of a restaurant in an existing retail tenant space and the construction of a new outdoor patio. The proposed use is less than 2,500 square feet. Therefore, proposed use and outdoor patio qualifies for a categorical exemption under Class 3.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- B. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

- B-1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of beer and wine is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- C. *The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

- C-1. The General Plan land use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. An eating and drinking establishment with alcohol sales and accessory outdoor dining is a consistent use within this land use designation. Restaurant uses can

be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.

- C-2. Eating and drinking establishments are common in the vicinity along the Balboa Peninsula and are frequented by visitors and residents alike. The establishment is compatible with the land uses permitted within the surrounding neighborhood. The new establishment will improve and revitalize the existing retail building and the surrounding neighborhood.
- C-4. The subject property is not part of a specific plan area.

Finding

- D. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

Facts in Support of Finding

- D-1. The site is located in the CN (Commercial Neighborhood) Zoning District. The CN zoning district is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed food service, eating and drinking establishment with beer and wine alcohol service and an outdoor patio is consistent with land uses permitted by the CN Zoning District.

Finding

- E. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding

- E-1. The operation of the restaurant will be restricted to the hours between 9:00 a.m. and 11:00 p.m., daily. The operation of the outdoor patio will be restricted to the hours between 9:00 a.m. and 10:00 p.m., daily.
- E-2. A restaurant has been operated in this location since 1971 pursuant to Use Permit No. 1551 and has not proven detrimental to the area. The tenant space within the shopping center has operated as an eating and drinking establishment in the past and demonstrated the location's capability of operating as a compatible use with other land uses in the vicinity.
- E-3. The project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible. The restaurant is oriented toward the parking lot and is located approximately 225 feet from residential properties across 32nd Street. The use permit has been conditioned to require the folding

doors and the outdoor patio area to be closed by 10:00 p.m. so that the establishment will comply with exterior noise standards and shield the restaurant activity from the residential uses across 32nd Street. The applicant is also required to control trash and litter around the subject property.

- E-4. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a restaurant and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
- E-5. The applicant is required to install a grease interceptor, obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

Finding

- F. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

Facts in Support of Finding

- F-1. The project site is located within an existing retail building and the tenant space is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.
- F-2. Adequate public and emergency vehicle access, public services, and utilities are provided within the renovated shopping center.
- F-3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- G. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- G-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment. The outdoor patio and louvered folding doors must be closed by 10:00 p.m. to limit the exterior noise to the surrounding residents.
- G-2. The food service, eating and drinking establishment will serve the surrounding residential community. The proposed establishment will provide dining services as a public convenience to the surrounding neighborhood. This will revitalize the project site and provide an economic opportunity for the property owner to update the retail tenants and services, which best serve the quality of life for the surrounding residential community.

CONDITIONS OF APPROVAL

Planning Department Conditions

1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This Use Permit may be modified or revoked by the City Council, Planning Commission, or Zoning Administrator should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
4. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
5. Use Permit No. UP2010-036 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.

6. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
10. *Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for the outdoor dining area in excess of 25 percent of the interior net public area in accordance with Chapter 15.38 of the Newport Beach Municipal Code.*
11. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
12. *The hours of operation for the interior of the eating and drinking establishment are limited from 9:00 a.m. to 11:00 p.m., daily. The hours of operation for the outdoor patio are limited from 9:00 a.m. to 10:00 p.m., daily. All activities within the outdoor dining area, including cleanup activities, shall cease at the specified closing hour and no later.*
13. *The doors to the outdoor patio area shall be closed by 10:00 p.m., daily, to limit the impact of interior noise to residents in the vicinity.*
14. *[deleted]*
15. *Live entertainment and dancing shall be prohibited as a part of the regular operation.*
16. *A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Director and Public Works Director in conjunction with the approval of an alternate drainage plan.*
17. *The patio floor area in excess of the 25 percent allowance will be deducted from the 15 percent of gross floor area limitation for eating and drinking establishment uses.*

18. *The accessory outdoor dining shall be used only in conjunction with the related adjacent establishment.*
19. *The outdoor patio shall be limited to 259 square feet in area and provide seating for twenty two persons maximum.*
20. *The seating and dining in the outdoor area shall be limited to dining table height (approximately 30 inches) and table surface area of 24 inches by 30 inches minimum. The use of elevated counters, tables, and barstools are prohibited in the outdoor dining area.*
21. *Prior to issuance of building permits, plans for the outdoor dining/patio areas shall be reviewed and approved by the Planning Department. Final material, height, and location of the fence shall be subject to approval by the Building and Planning Department staff.*
22. *The boundary of the accessory outdoor dining area shall be marked through the use of a 36-inch-high rail as shown on the approved plans. Fences, walls, or similar barriers shall serve only to define the outdoor dining area and not constitute a permanent all weather enclosure.*
23. *The material and color of any awning or umbrella located on the outdoor dining/patio areas shall be subject to review and approval by the Planning Department. No form of advertisement shall be placed on an awning, umbrella or elsewhere in the outdoor patio dining areas. The outdoor patio dining areas, including any awning or umbrella, shall be maintained in a clean orderly condition at all times.*
24. *The installation of roof coverings in addition to the proposed fabric awning shall not have the effect of creating a permanent enclosure. The use of umbrellas for shade purposes shall be permitted. The use of any other type of overhead covering shall be subject to review and approval by the Planning Director and may require an amendment to this permit.*
25. *There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.*
26. *The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 41 in conjunction with the service of food as the principal use of the facility.*
27. *All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the*

standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

28. *This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.*
29. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.*
30. *No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.*
31. *The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based up on monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*
32. *The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on command.*
33. *There shall be no on-site radio television, video, film, or other electronic or media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.*
34. *Live entertainment and dancing shall be prohibited as a part of the regular operation of the establishment.*
35. *No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.*
36. *The approval is only for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, with the principal purpose for the sale or service of food and beverages with sale and service of alcoholic beverages incidental to the food use.*

37. *Full meal service shall be provided during all hours of operation.*
38. *Strict adherence to maximum occupancy limits is required.*
39. *A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.*
40. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
41. The proprietor shall actively control any noise generated by the patrons of the facility.
42. The operator of the facility shall be responsible for the control of noise generated on the subject facility. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time period unless the ambient noise level is higher:

| | Between the hours of 7:00AM and 10:00PM | | Between the hours of 10:00PM and 7:00AM | |
|--|---|----------|---|----------|
| Location | Interior | Exterior | Interior | Exterior |
| Residential Property | 45dBA | 55dBA | 40dBA | 50dBA |
| Residential Property located within 100 feet of a commercial property | 45dBA | 60dBA | 45dBA | 50dBA |
| Mixed Use Property | 45dBA | 60dBA | 45dBA | 50dBA |
| Commercial Property | N/A | 65dBA | N/A | 60dBA |

43. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
44. [deleted]

45. *No amplified music, outside paging system, loudspeaker or other noise generating device are permitted in conjunction with the outdoor dining area.*
46. No outside paging system shall be utilized in conjunction with this establishment.
47. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
48. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.67 of the Newport Beach Municipal Code.
49. No temporary "sandwich" signs or similar temporary signs shall be permitted, either on-site or off-site, to advertise the restaurant.
50. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
51. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
52. Prior to the final of building permits, the refuse storage facilities should be upgraded to meet the requirements specified by Title 20 by providing self-locking gates.
53. The applicant shall provide a minimum of one common trash enclosure evenly distributed throughout the project site. The size, design and location of trash enclosures shall be subject to the review and approval of the Public Works and Planning Departments prior to issuance of a building permit for new construction. The enclosures shall be located on a four inch concrete pad screened by a six foot high decorative concrete block wall that is compatible with the architectural design of the residential buildings. The enclosures shall incorporate a cover of decorative beams or other roofing material to provide security and visual screening from above.
54. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

55. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
56. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
57. Prior to final of the building permits, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site and adjacent areas to the Planning Department for review. The building permit shall not be finalized and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the Newport Beach Municipal Code that includes issuance of a citation of violation and monetary fines.
58. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Planning Director, and may require an amendment to this use permit.
59. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
60. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Crow Burger Kitchen including, but not limited to Use Permit No. 2010-036 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the

indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building and Fire Department Conditions

61. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Department.
62. A building permit is required to allow the change in use to an eating and drinking establishment. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
63. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Department.
64. *The construction plans must meet all applicable State Disabilities Access requirements.*
65. *Approval from the Orange County Health Department is required prior to the issuance of a building permit.*
66. *A grease interceptor shall be installed prior to the establishment opening for business.*
67. *Complete sets of drawings including architectural, electrical, mechanical, and plumbing plans shall be required at plan check.*
68. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
69. *The applicant shall provide a Type I hood with a kitchen suppression system for cooking equipment.*
70. *Portable propane heaters shall be prohibited on the outdoor patio. Natural gas or electric heaters are allowed if installed per their listing and the California Electrical or Plumbing Code.*
71. The rear doors of the facility shall remain closed at all times. The use of the rear door shall be limited to deliveries and employee use only. Ingress and egress by patrons is prohibited unless there is an emergency.

72. All exits shall remain free of obstructions and available for ingress and egress at all times.
73. Strict adherence to maximum occupancy limits is required.

Public Works Department Conditions

74. County Sanitation District fees shall be paid prior to the issuance of any building permits.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$4,280.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By: _____

Gregg Ramirez, Zoning Administrator

GR/mkn

Attachments:

Vicinity Map

VICINITY MAP



Use Permit No. UP2010-036
PA2010-155

3107 Newport Boulevard

Attachment No. PC 4

Commissioner Unsworth's
Memorandum Requesting Appeal

CITY OF NEWPORT BEACH
Community Development Department
Planning Division
3300 Newport Boulevard, Bldg. C
Newport Beach, CA 92663

APPLICATION TO APPEAL THE DECISION OF THE

☒ **ZONING ADMINISTRATOR**

☐ **PLANNING DIRECTOR**

Project No. PA2010-155 Activity No. UP2010-036

Site Address 3107 Newport Boulevard

Name of Appellant
or person filing Charles W. Unsworth Phone No. 949 675-1950

Date of action: January 27, 2011

(Description of application) A minor use permit to allow a food service, eating and drinking establishment with no late hours, a covered outdoor patio, and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license. The gross floor area of the establishment is 1,878 square feet, the interior net public area will be 650 square feet, and the outdoor patio will be 259 square feet in area. The establishment will provide a maximum of 42 interior seats and 22 seats on the patio. The hours of operation are from 9:00 a.m. to 11:00 p.m., daily and 9:00 a.m. to 10:00 p.m. for the outdoor patio.

Reasons for Appeal SEE ATTACHED LETTER DATED FEBRUARY 3, 2011

Signature of Appellant _____

Date _____

FOR OFFICE USE ONLY

Received by: _____ Fee Received: _____

Date Appeal filed and Administrative Fee received: _____

NOTE: Please submit:

- 11x17 set of plans – 12 each
- One set of mailing labels (Avery 5960) for property owners within 300 ft. radius of subject property

APPEALS: Municipal Code Sec. 20.64

Appeal Fee: \$4,280.00 pursuant to City Council Resolution 2009-86

(Deposit funds with Cashier in Account #2700-5000)

CHARLES W. UNSWORTH

3419 Via Lido #247
Newport Beach, California 92663
Phone (949)675-1950
Fax (949)566-9822

**RECEIVED BY
PLANNING DEPARTMENT**

February 3, 2011

FEB 07 2011

Joel Fick, Acting Community Development Director
James Campbell, Acting Planning Director
Planning Department
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663

CITY OF NEWPORT BEACH

Re: Appeal of the Zoning Administrator's Grant of Use Permit No. UP2010-036
(PA2010-155) for 3107 Newport Boulevard

Gentlemen:

As a Planning Commissioner of the Newport Beach Planning Commission, I hereby appeal and/or call for review of the captioned grant of the captioned Use Permit for the following reasons:

1. Condition No. 6 of Exhibit A, Conditions of Approval of Planning Commission Resolution No. 1826 for the Landing Project, which was passed, approved and adopted December 9, 2010 provides as follows: "6. All eating and drinking establishments will be required to obtain separate use permits. Any separate discretionary approvals will regulate the operation of the specific use within the project site. Nothing in this resolution and or conditions ensures any square footage for any restaurant use or application." That condition was imposed under authority of the Zoning Code ("Old Zoning Code") which was in effect prior to adoption of the new Zoning Code. The Old Zoning Code and Condition No. 6 required a use permit to be granted by the Planning Commission as opposed to a minor use permit authorized by the new Zoning Code. The adoption of the new Zoning Code did not change the intent or legal effect of Condition No. 6. Therefore, a use permit for the captioned Project must be granted by the Planning Commission, not a minor use permit by the Zoning Administrator or Planning Director.

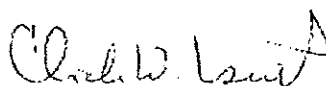
Joel Fick
James Campbell
February 3, 2011
Page 2

2. The Use Permit for the Chipotle restaurant (Resolution No. 1827) located within the Landing was also approved on December 9, 2010. Service of alcohol was prohibited in its outdoor dining area. Prior to granting the captioned Use Permit, the Planning Commission should hear evidence as to why one applicant should be allowed and one applicant not allowed the right to serve alcohol in its outdoor dining area. The Zoning Administrator's decision did not substantiate such a distinction.
3. Prior to granting any rights to serve alcohol in outdoor dining areas and/or establishing hours of operations for serving alcohol the Planning Commission should be fully apprised of the impact and relationship between the proposed Use Permit or any other use permit or minor use permit and the newly enacted Operator License Ordinance.

Because the hearing will be de novo, other questions and issues, including, but not limited to, compliance with Condition No. 25, the Zoning Code section under which applicant is to operate, and the date of the Zoning Administrator's action, will be open for discussion and decision.

Thank you and your department for your ongoing fine and difficult work.

Yours truly,


Charles W. Unsworth
Planning Commissioner

/ccu

cc: Leilani Brown, City Clerk

Attachment No. PC 5

Commissioner Hawkin's
Memorandum Requesting Appeal

RECEIVED BY
PLANNING DEPARTMENT

Law Offices of Robert C. Hawkins

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

FEB 09 2011

CITY OF NEWPORT BEACH

FAX COVER SHEET

TRANSMITTED TO:

| NAME | FAX NUMBER | PHONE NUMBER |
|--|----------------|--------------|
| Joel Fick, Acting CD Director James Campbell, Acting Planning Director | (949) 644-3229 | |
| Leilani Brown, City Clerk | (949) 644-3039 | |
| | | |

From: Robert C. Hawkins

Client/Matter: Planning Commission

Date: February 9, 2011

Documents: Further Appeal of Use Permit No. UP2010-036 (PA2010-155)

Pages: 3*

COMMENTS: Original will follow as indicated.

The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.

* NOT COUNTING COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE US IMMEDIATELY AT (949) 650-5550.

LAW OFFICES OF ROBERT C. HAWKINS

February 9, 2011

Via Facsimile and Hand Delivery

Joel Fick, Acting Community Development Director
James Campbell, Acting Planning Director
Planning Department
City of Newport Beach
3300 Newport Blvd.
Newport Beach, California 92663

Re: Further Appeal of the Zoning Administrator's Grant of Use Permit No. UP2010-036 (PA2010-155) for Crow Burger Kitchen Use Permit at 3107 Newport Blvd.

Greetings:

As you know, I am honored to serve as a member of the City's Planning Commission for the City of Newport Beach. I understand that Mr. Charles Unsworth on the Planning Commission has appealed/called for review the captioned approval. As a planning commissioner and pursuant to the Municipal Code, I also appeal the captioned action for reasons similar to those in Mr. Unsworth's February 3, 2011 appeal letter (the "Appeal").

At the outset and complimentary with the Appeal, at the December 9, 2010 Planning Commission hearing in connection with the Landing Use Permit No. UP 2010-002, the Commission understood that, as Chairman McDaniel said that when the developer brings other applications, we (the Planning Commission) will have an opportunity to hear it. Indeed, the Acting Planning Director also talked about other applications would come before the Planning Commission. See tape of December 9, 2010 meeting. The captioned decision conflicts with this understanding and intent embodied in the Landing Use Permit.

In addition, I appeal the decision for the following additional reasons: Finding B cannot be made; Findings C-G cannot be made because the presence of alcohol in the outdoor dining area conflicts with the General Plan and the Zoning Code, and is incompatible with adjacent residential uses; the Conditions of Approval are internally inconsistent. Further, the date of the captioned decision is wrong and the appeals are timely.

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

Joel Fick, Acting Community Development Director
James Campbell, Acting Planning Director

- 2 -

February 9, 2011

First, Finding B states: "All eating and drinking establishments will be required to obtain separate use permits."

"The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code."

Among other things, the facts in support of this finding state:

"The service of beer and wine is intended for the convenience of customers dining at the restaurant."

This fact does not support the suggested finding because Section 20.48.030 forbids consumption of alcohol on site. Section 20.48.030 addresses off sale alcohol uses such as liquor stores. Because the findings cannot be made for Section 20.48.030 uses and such uses conflict with the applicant's desired uses, this finding is inappropriate.

Further, assuming that this is a typographic or clerical error, the finding required for approval under Section 20.48.090 cannot be made for the reasons set forth below. The presence of alcoholic beverages in the outdoor dining area is inconsistent with the General Plan, the Zoning Code, is incompatible with adjacent residential uses, and is detrimental to the health, safety, and welfare of the area and its residents.

Second, Commissioner Unsworth has challenged the captioned Use Permit's grant of alcohol in the outdoor patio as conflicting with the Chipotle Use Permit No. UP2010-017 and Accessory Outdoor Dining Permit No. 002010-004, and perhaps being unequal treatment. Although I support this contention, I also believe that the captioned Use Permit's grant of alcohol consumption in the outdoor patio is unsound land use policy itself and conflicts with the General Plan, the Zoning Code and sound policy. That is, Findings C (consistency with the General Plan), D (consistency with the Zoning Code), E (compatible with adjacent land uses), F (physically suitable for the use) and G (not detrimental to health, safety and welfare) cannot be made because of the use of alcohol in the outdoor patio.

Further, Chipotle which was processed under the former Zoning Code applied for and received an Accessory Outdoor Dining Permit. The captioned use permit which is processed under the recently adopted Zoning Code appears to include outdoor dining as part of the use permit. However, it is unclear whether this outdoor dining grant ensures that the size of the outdoor dining will not overburden the parking at the Landing.

Third, Condition No. 1 states that "[t]he development shall be in substantial conformance with the approved site plan, floor plan, and building elevations dated with this date of approval." Although this is unclear, presumably it means the plans provided to the Zoning Administrator. Condition No. 25 states:

"There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages."

Jed Fek, Acting Community Development Director
James Campbell, Acting Planning Director

- 3 -

February 9, 2011

However, the building elevations drawings show the advertising of beer: "Crow Burger Kitchen fine food + beer." This conflicts with Condition No. 25. The applicant, the public, and the Community Development Department (or Planning Department, Building Department, and Code Enforcement) are left in the dark as to which Condition governs.

Fourth, Condition No. 4 requires that:

"The patio floor area in excess of the 25 percent allowance will be deducted from the 15 percent of gross floor area limitation for eating and drinking establishment uses."

However, the captioned decision fails to perform this deduction and fails to show the square footage which remains for other eating and drinking establishments. The captioned decision should be revised to include this calculation.

Finally, the captioned decision lists the date of the decision as "January 13, 2011." As indicated above, this is incorrect. As indicated on the attached Agenda for the January 27, 2011 Meeting of the Zoning Administrator, the hearing for the captioned action was noticed for January 13th but continued to January 27, 2011. Hence, the appeals are timely and this typographical error should be corrected.

Given that the hearing will be de novo, I reserve the right to supplement additional reasons which may arise during this appeal process or in review of public records in connection with this matter.

Thank you for your assistance in this matter. Of course, notwithstanding this appeal, thank you for the fine and difficult work that you and your department have done and continue to do. I look forward to learning the date and time of the hearing on this appeal. Should you have any questions, please do not hesitate to contact me.

Sincerely,

LABOR OFFICES OF ROBERT C. HAWKINS



By: Robert C. Hawkins

RCH/kw

cc: Leilani Brown, City Clerk (Via Facsimile Only)

Law Offices of Robert C. Hawkins

110 Newport Center Drive, Suite 200

Newport Beach, California 92660

(949) 650-5550

Fax: (949) 650-1181

FAX COVER SHEET

TRANSMITTED TO:

| NAME | FAX NUMBER | PHONE NUMBER |
|--|----------------|--------------|
| Joel Fick, Acting CD Director James Campbell, Acting Planning Director | (949) 644-3229 | |
| Leilani Brown, City Clerk | (949) 644-3039 | |
| | | |

From: Robert C. Hawkins

Client/Matter: Planning Commission

Date: February 9, 2011

Documents: Further Appeal of Use Permit No. UP2010-036 (PA2010-155) attachment ZA
Hearing Agenda for January 27, 2011

Pages: 3*

COMMENTS: Original will follow as indicated.

The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.

* NOT COUNTING COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE US IMMEDIATELY AT (949) 650-5550.

ZONING ADMINISTRATOR HEARING AGENDA

CITY OF NEWPORT BEACH
COUNCIL CHAMBERS – 3300 NEWPORT BOULEVARD
Thursday, January 27, 2011
Regular Meeting – 3:30 p.m.

Gregg Ramirez
Zoning Administrator

NOTICE TO THE PUBLIC**HEARING ITEMS**

ITEM NO. 1. Continued from 12/02/10 and 01/13/11 Hearing
Modification Permit No MD2010-016 (PA2010-130)
8 Via Burrone Council District 6

SUMMARY: 8 Via Burrone Modification - A modification permit to allow retention of an over-height, "as built" privacy wall and entry gates which encroaches to 10 feet into the required 10-foot front yard setback. As measured from natural grade, the accessory structure consists of the following elements: stucco-finished walls (to 7-feet 8-inches high), 2 stucco-finished pilasters (to 8-feet 10-inches high), 4 stucco finished pilasters (to 9-feet 11-inches high), 6 wrought-iron, decorative lamps (one lamp attached to each of 4 pilasters 8-feet 8-inches high and one lamp attached to each of 2 pilasters 7-feet 8-inches high), a wrought-iron entry gate (to 8-feet 10-inches high), and 2 fountains (each to 5-feet 8-inches high). The Zoning Code limits accessory structures within the front yard setback to a maximum height of 3-feet 6-inches.) The property is located in the PC-52 (Newport Coast) District.

**RECOMMENDED
ACTION:**

- 1) Conduct public hearing; and
- 2) Deny Modification Permit No MD2010-016 (PA2010-130) subject to the recommended findings.

CEQA

COMPLIANCE: The project is exempt from environmental review pursuant to Section 15303, Class 3 (New Construction or Conversion of Small Structures) of the Implementing Guidelines of the California Environmental Quality Act.

ITEM NO. 2. Continued from 01/13/11 Hearing
Use Permit No. UP2010-036 (PA2010-155)
3107 Newport Boulevard Council District 1

SUMMARY: Crow Burger Kitchen Use Permit - A minor use permit to allow a food service, eating and drinking establishment with no late hours, a covered outdoor patio, and a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license. The gross floor area of the establishment is 1,878 square feet, the interior net public area will be 650 square feet, and the outdoor patio will be 259 square feet in area. The establishment will provide a

maximum of 42 interior seats and 22 seats on the patio. The requested hours of operation are from 9:00 a.m. to 11:00 p.m., daily. The property is located in the CN (Commercial Neighborhood) District.

RECOMMENDED

ACTION:

- 1) Conduct public hearing; and
- 2) Approve Use Permit No. UP2010-036 (PA2010-155) subject to the recommended findings and conditions.

CEQA

COMPLIANCE: The project is exempt from environmental review pursuant to Section 15303, Class 3 (New Construction or Conversion of Small Structures) of the Implementing Guidelines of the California Environmental Quality Act.

This hearing is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Zoning Administrator's agenda be posted at least 72 hours in advance of each hearing and that the public be allowed to comment on agenda items before the Zoning Administrator and items not on the agenda but are within the subject matter jurisdiction of the Zoning Administrator. The Zoning Administrator may limit public comments to a reasonable amount of time, generally either three (3) or five (5) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this hearing, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact the Planning Department at least 48 hours prior to the hearing to inform us of your particular needs and to determine if accommodation is feasible.

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

Any writings or documents provided to the Zoning Administrator regarding any item on this agenda will be made available for public inspection in the office of the Planning Department located at 3300 Newport Boulevard, during normal business hours.

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

Attachment No. PC 6

Acoustical Summary

COLIA ACOUSTICAL CONSULTANTS

177 Riverside, #F
Newport Beach, CA 92663
Certified Acoustical Consultants
Phone 714 960-7511
Fax 714 960-6775
Email: RColia@socal.rr.com

L11-005

January 21, 2011

Mr. Steve Geary
The Crow Bar & Kitchen
2325 Coast Highway
Corona Del Mar, CA 92625

SUBJECT: Acoustical Report of Measurement of Potential Noise Levels At the
New Restaurant at 3107 W. Balboa in Newport Beach

Dear Mr. Geary;

This letter has been prepared to detail the results of measurements of the ambient noise levels along 32nd Street between Balboa Boulevard and Newport Boulevard in Newport Beach. These measurements were made with a clear view to the vehicular traffic on 32nd Street. The measurement location was at the edge of sidewalk representing the closest property of the residences on the north side of 32nd Street.

The measurements were made between 10:00 P.M. and 10:30 P.M. on January 19, 2011 at the location shown in Figure 2. This site was selected to represent the equivalent distance to the property lines of the residences without being on their property. The measurements were made using the A-weighted scale of a Bruel and Kjaer 2230 Precision Integrating Sound Level Meter, Type I. The meter was calibrated before the measurements and was found to be within 0.1 dB of tolerance.

The results of the measurement indicate an average noise level (Leq) of 62 dB. The ambient noise level of existing traffic in the area indicates high traffic volumes on Newport Boulevard and 32nd Street on a mid-winter mid-week night. One might expect higher traffic flows in spring, summer and fall nights, especially on weekends.

RESULTS

At North Residential Property Side across 32nd Street:

Site 1: Measured **62.0 dBA** at representative 10 P.M. hour.

L11-005

January 21, 2011

The City Exterior Noise Standard is **50 dBA** at night (10:00 P.M. to 7:00 A.M).

The proposed restaurant at 3107 W. Balboa will have a north facing patio that will seat a maximum of 22 people. Normal conversation between two people averages 65 dBA at 3 feet. With 22 people speaking at once the combined worst case noise level at 3 feet would be 78.4 dBA at the patio. The residences across 32nd Street are 208 feet away from the patio to their closest property line. The noise drop-off rate is 6 dB per each doubling of distance. The noise drop-off with distance was calculated by the following formula:

$$20 \text{ Log } (3'/208') + 78.4 = \mathbf{41.6 \text{ dBA}}$$

The noise from the patio will traverse across the parking lot and 32nd Street and will decrease with distance (of 208 feet) to 41.6 dBA at the residences to the north. Even if the noise level of louder voices would increase to 75 dBA in conversation the projected impact at 208 feet would fall to 51.6 dBA to the north. Table 1 show these results in summary. The worst-case level of 51.6 dBA is slightly higher the nighttime standard of 50 dBA but is significantly lower than the existing traffic noise level of 62 dBA at 10 P.M. from 32nd Street. Thus, the patio noise impact in normal conditions meets the City standard of 50 dBA and is significantly less than ambient street noise. Even the worst-case noise level is significantly less than the ambient street traffic but is slightly higher the noise standard by at least 1 dB.

TABLE 1

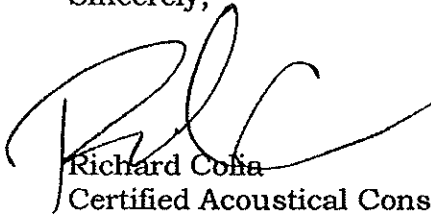
Summary of Results – New North-Facing Patio, 22 people

| <i>Patio Noise Level</i> | <i>Distance to Residences Feet</i> | <i>Noise Level @ Residences</i> | <i>Nighttime Std. dBA</i> | <i>Ambient 32nd St.</i> |
|--------------------------|------------------------------------|---------------------------------|---------------------------|------------------------------------|
| 65 dBA | 208 | 41.6 | 50 | 62 dBA |
| 75 dBA (worst-case) | 208 | 51.6 | 50 | 62 dBA |

L11-005
January 21, 2011

If you have any questions regarding this information please call.

Sincerely;

A handwritten signature in black ink, appearing to be 'R. Conia', written over the printed name.

Richard Conia
Certified Acoustical Consultants

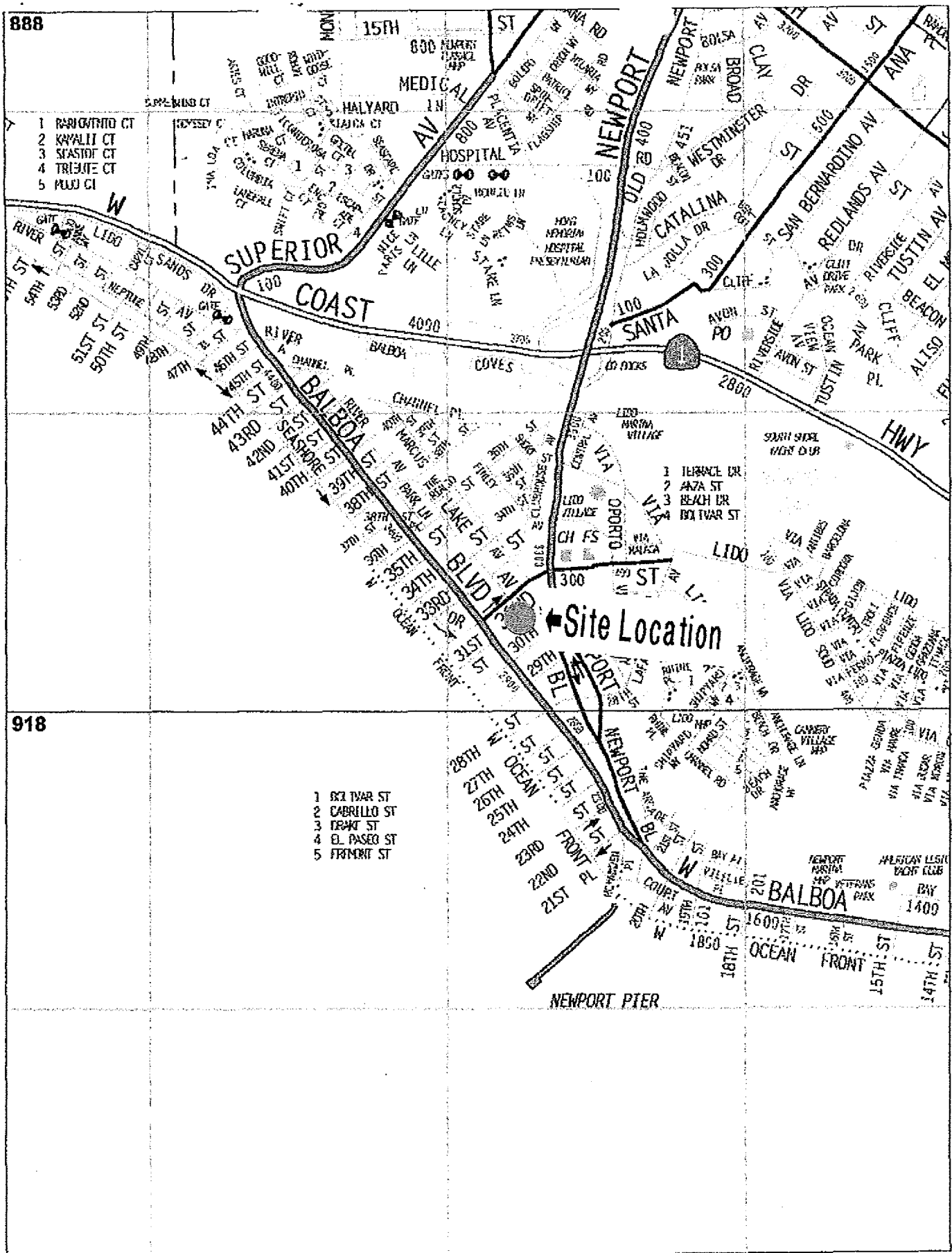


FIGURE 1: Site Location Map

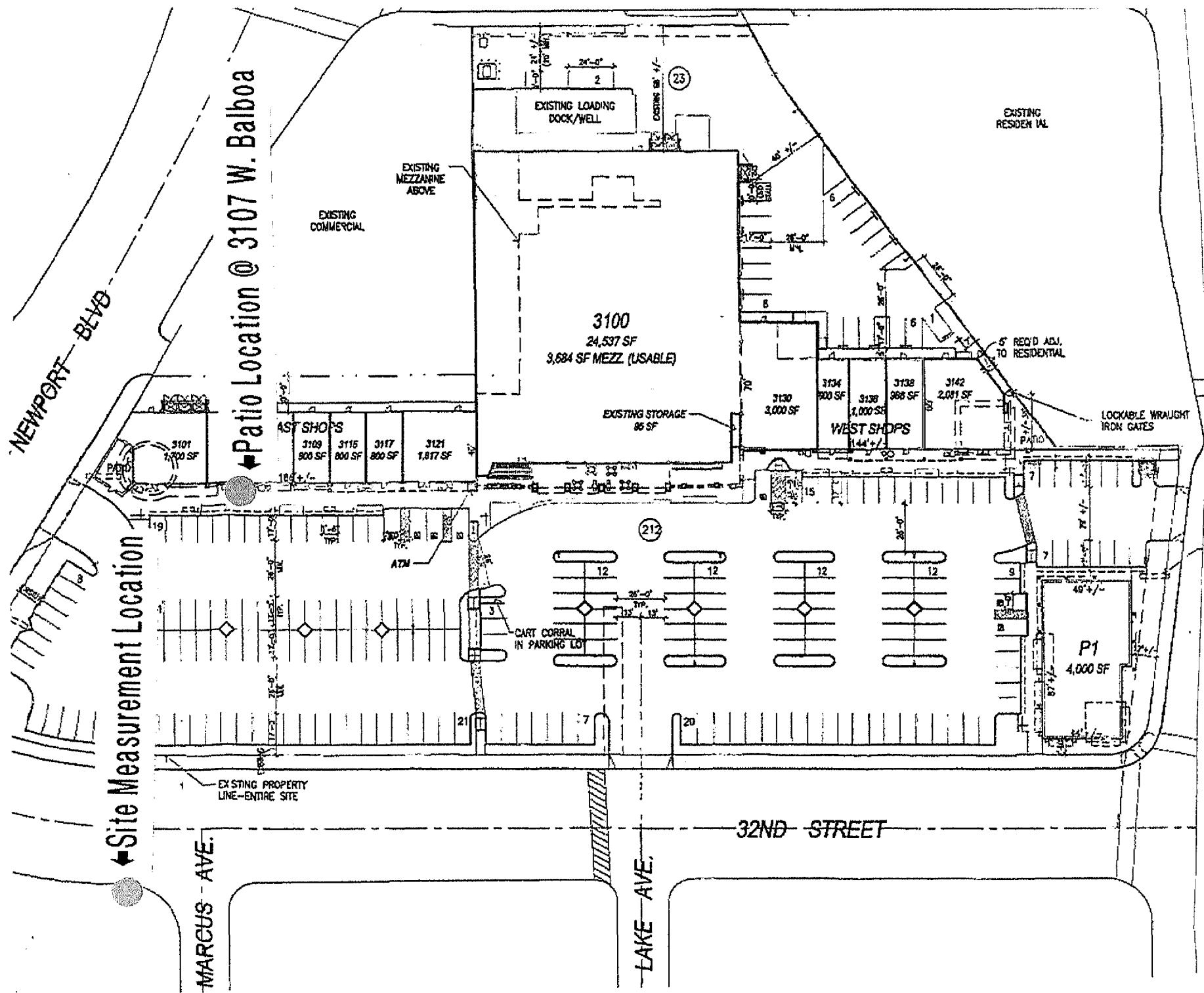
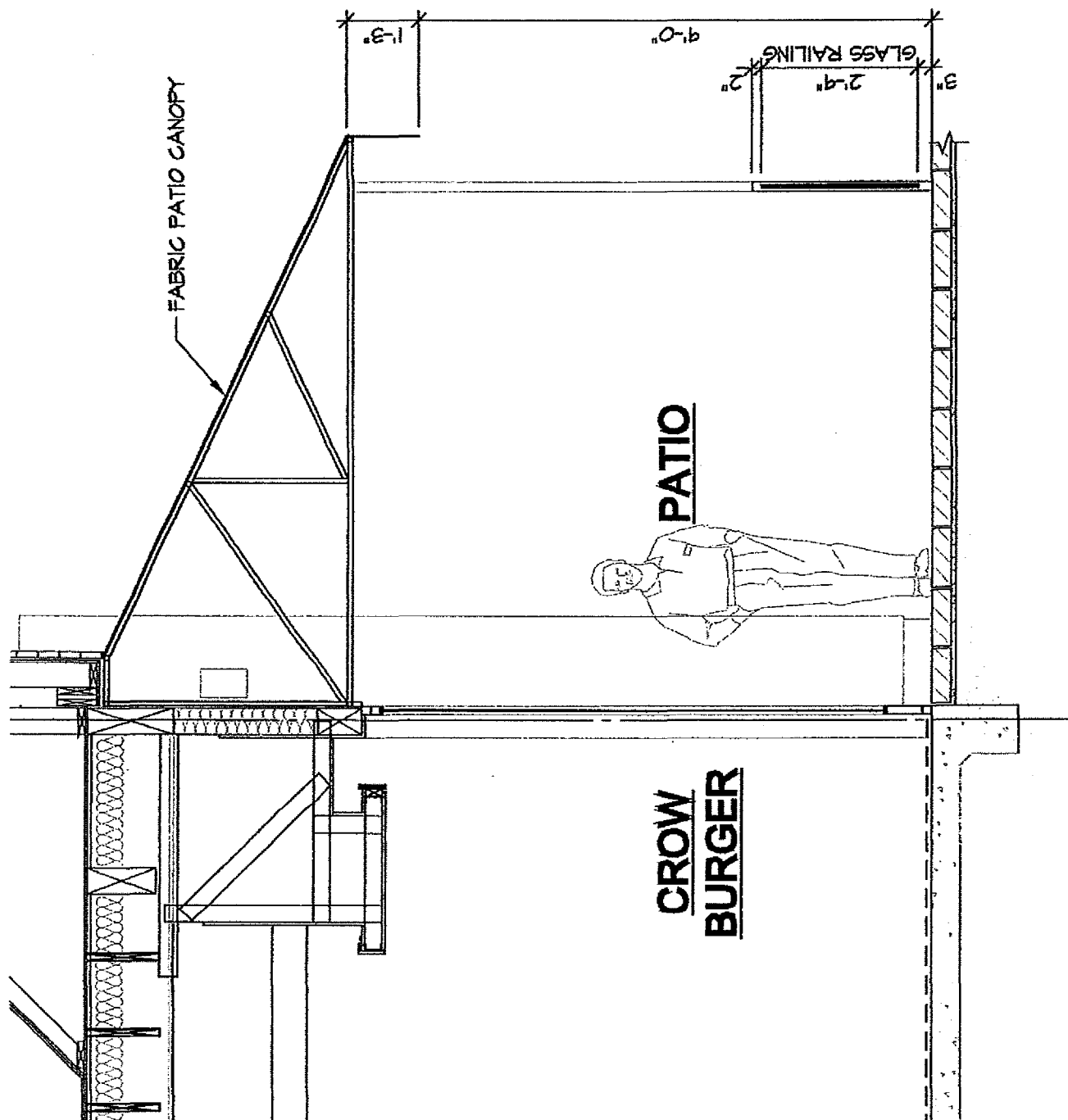


FIGURE 2: Site Measurement Location



Attachment No. PC 7

Alcohol Related Statistics

City of Newport Beach

Police Department

Memorandum

November 29, 2010

TO: Makana Nova, Assistant Planner

FROM: Paul Salenko, Crime Analyst

SUBJECT: Alcohol Related Statistics

At your request, our office has reviewed police services data for the **Crow Burger Kitchen** at **3107 Newport Blvd.** This area encompasses our reporting district (RD) number 15 as well as part of Census Tract 635. This report reflects **City of Newport Beach** crime data for calendar year 2009, which is the most current data available.

Calls for Service Information

City wide there were approximately 69,294 calls for police services during this time, of which 6,663 were in RD15. A "call for service" is, *any contact of the police department by a citizen which results in the dispatching of a unit or causes the contacted employee to take some sort of action*, such as criminal investigations, alarm responses, traffic accidents, parking problems, and animal control calls, etc.

Crime Information

There were 6,194 crimes reported to the Newport Beach Police Department during this period. Of this total, 2,884 were Part One Crimes. Part One crimes are the eight most serious crimes (*Homicide, forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-theft, Auto Theft and Arson*) as defined by the FBI in the Uniform Crime Reports. The remaining 3,350 were Part Two crimes. The Part One crime rate for the entire city during this same period was 3,297.31 per 100,000 people. The national Part One crime rate was 3,667.02* per 100,000 people.

| Crimes | RD 15 | Newport Beach | California* | National* |
|-------------------|-----------|---------------|-------------|------------|
| Part 1 | 343 | 2,884 | 1,184,073 | 10,639,369 |
| Part 2 | 242 | 3,350 | N/A | N/A |
| Part 1 Crime Rate | 11,506.43 | 3,297.31 | 3,203.52 | 3,465.52 |

The number of active ABC licenses in this RD is 79**
Per capita ratio 1 license for every 38 residents.

This reporting district had a total of 946 reported crimes as compared to a City wide reporting district average of 162 reported crimes. This reporting district is 784 crimes more or 483.95% above the City wide reporting district average. This location is within an RD that is over the Orange County per capita average of ABC licenses**.

Arrest Information

There were 80 DUI arrests and 281 Plain Drunk arrest in this area during this same period as compared to 1,270 for the entire city. This RD amounts to 28.43% of the DUI/Drunk arrests made in the entire City. According to a recent national study by the Department of Justice, more than 36% of adult offenders convicted of crimes in 1996 had been drinking at the time of their arrest.

| Arrests (DUI/Drunk) | RD 15 | Newport Beach | California* | National* |
|------------------------|-------|---------------|-------------|------------|
| | 361 | 1,270 | 324,442 | 2,094,731 |
| Total Arrests | 796 | 3,595 | 1,474,004 | 13,687,241 |

Additional Information

The Alcoholic Beverage Outlets ordinance states that the Planning Commission shall consider the crime rate in the adjacent reporting districts. The two adjacent reporting districts you requested are RD 13 and RD 16

| Crimes | RD 13 | RD 16 |
|--------------------------------------|----------------|-----------------|
| Part 1 | 112 | 167 |
| Part 2 | 79 | 107 |
| Crime Rate | 5,812.62 | 6,003.49 |
| Arrests (DUI/Drunk) | 39 | 110 |
| Total Arrests | 161 | 323 |
| Calls For Service | 2,554 | 3,261 |
| Number of active ABC licenses | 6** | 6** |
| Per capita ratio 1 license for every | 321* residents | 464* residents. |

Note: It is important to remember that when dealing with small numbers any change greatly affects any percentage changes.

The population figure used for the Crime Rate was 86,252.

*These numbers are from the 2009 Uniform Crime Reports, which is the most recent edition.

**The number of active ABC licenses is the total of all types of licenses known to the police department as of the date of this document. As of June 30, 2009 the Orange County average of active, retail ABC licenses was 1 license for every 542 residents. (5,589 licenses and a population of 3,026,786)

If you are in need of any further assistance, please contact me at (949) 644-3791.

Paul Salenko
Crime Analysis Unit

Attachment No. PC 8

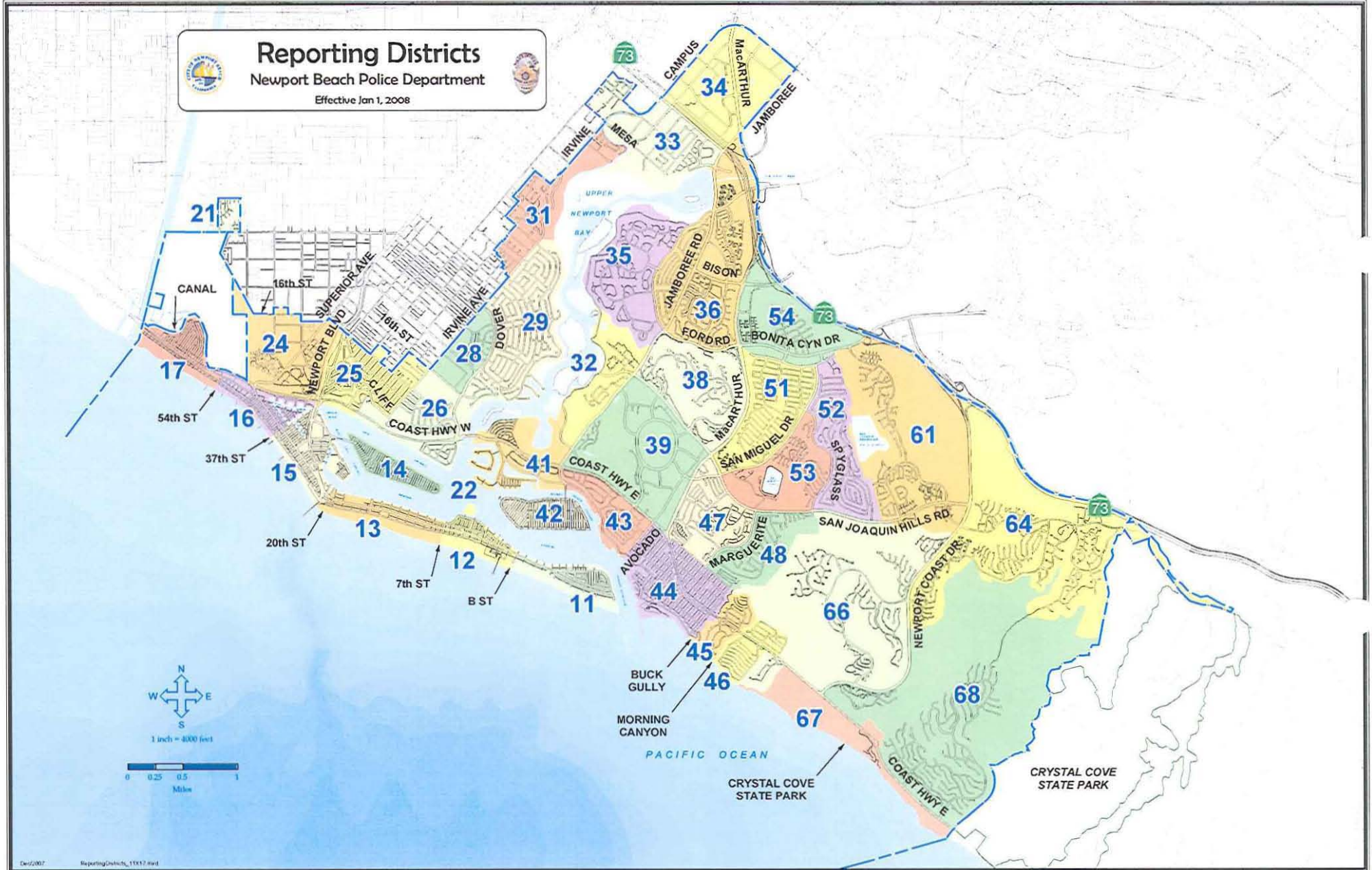
Newport Beach Reporting Districts



Reporting Districts

Newport Beach Police Department

Effective Jan 1, 2008





Attachment No. PC 9

Police Department Recommendation

**City of Newport Beach
Police Department**

M e m o r a n d u m

November 29, 2010

TO: Makana Nova, Assistant Planner

FROM: Detective Bryan Moore

SUBJECT: Crow Burger Kitchen, 3107 Newport Boulevard, Use Permit No. 2010-036, OD2010-005 (PA2010-155).

At your request, the police department has reviewed the project application for *Crow Burger Kitchen*, located at 3107 Newport Boulevard, Newport Beach. The applicant proposes a use permit and outdoor dining permit that would allow for a full-service, high turnover eating and drinking establishment with a Type 41 alcoholic beverage license. The gross floor area of the establishment is 1,878 square feet, the interior net public area will be 650 square feet and the outdoor patio will be 259 square feet in area. The establishment will provide a maximum of 42 interior seats and 22 seats on the patio. The requested hours of operation are from 9:00 a.m. to 11:00 p.m., Sunday through Wednesday and 9:00 a.m. to 12 midnight, Thursday through Saturday.

The applicant will apply for a Type 41 (On Sale & Wine – Eating Place) license with the Department of Alcoholic Beverage Control.

I have included a report by Crime Analyst Paul Salenko that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that this new location **is** within an area where the number of crimes is at least 75% higher than the average of all reporting districts in the City. This location **is** also within an RD that is over the Orange County per capita of ABC licenses.

Applicant History

The applicant, Steve Geary, is a resident of Corona del Mar and has been the principle owner/operator of the Crow Bar and Kitchen restaurant (in CDM) since its inception in 2007. Geary's current concept for the Crow Burger Kitchen involves a restaurant that specializes in serving gourmet style burgers. Geary's intent is to provide patrons with a quality late night dining option, at reasonable prices and a neighborly atmosphere.

Crow Burger Kitchen
UP No. 2010-036

Geary proposes to pair the restaurant's cuisine with craft style beers as well as a quality, limited wine list. Geary believes that his alcoholic beverage selection will serve to enhance the food and overall dining experience, without providing an atmosphere for heavy drinking over long periods of time.

Per the plans provided by Geary, there is no fixed bar at this location; however; he did state that there will be two televisions inside the restaurant (with no sound) which will add to the ambiance of the dining area.

Police Activities and Calls for Service Data (Crow Bar Kitchen)

The below information represents the time period between January 1, 2010 through November 30, 2010:

| TYPE | CALLS/INCIDENTS | NOTES |
|--------------------------|-----------------|--|
| Fights/Disturbance Calls | 10 | Batteries, verbal disputes, keep the peace |
| Miscellaneous Calls | 8 | Medical aid, alarms, etc. |
| Alcohol Related Arrests | 2 | (2) DUI and (0) public intoxication |
| Use Permit Violations | 0 | None noted by Police Department |

Recommendations

The proposed location for Crow Burger Kitchen is located in RD (reporting district) 15 which is the most concentrated area for retail alcohol establishments in Newport Beach (1 ABC license for every 38 residents). Additionally, this RD had a total of 946 reported crimes as compared to a City wide reporting district average of 162 reported crimes (483.95% above the City wide RD average). These statistics would tend to indicate that there is a strong correlation between the over-concentration of ABC establishments and police related activity. It should also be noted that the majority of these calls for service occurred between the hours of 6 p.m. and 2 a.m.

It is for the above reasons that we are projecting that the applicant's proposal will have an impact on police related activities and calls for police services. In order to minimize the impact that this additional ABC license will have on the community, the Police Department is recommending that the Crow Burger Kitchen close at 11:00 p.m., daily. Additionally, we would recommend that the outdoor patio close at 10:00 p.m., daily. These recommended hours will not only lessen the impact on calls for service, but they will also limit the effects that noise will have on the neighboring residential areas.

It should be noted that the Police Department would give further consideration to the applicant's proposed hours of operation should they be subject to the pending Operator's Permit Ordinance.

Signs and Displays

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising

directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

Hours of Operation

The proposed hours of operation are from 9:00 a.m. to 11:00 p.m., Sunday through Wednesday and 9:00 a.m. to 12 midnight, Thursday through Saturday.

The Police Department recommends that Crow Burger close not later than 11:00 p.m., daily. We also recommend that the outdoor patio close at 10:00 p.m., daily.

Security

The police department has no recommendations.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Additional Comments

The Police Department has no additional objections to the operation as described by the applicant. For the purposes of this application, staff may also want to consider establishing conditions that would require a special event permit. A special event permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation. For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form of contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

Other Recommended Conditions

In addition, the Police Department has determined that the following conditions would be appropriate for the conditional use permit for the business:

1. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the planning commission first approves a use permit.
2. No alcoholic beverages shall be consumed on any property adjacent the licensed premises under the control of the licensee.
3. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9 p.m.

4. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
5. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the police department on demand.
6. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
7. There shall be no live entertainment allowed on the premises.
8. There shall be no dancing allowed on the premises.
9. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
10. Food service from the regular menu must be available to patrons until close.
11. Strict adherence to maximum occupancy limits is required.

Alcoholic Beverage Control License

Upon approval of the CUP, the ABC license will be conditioned as necessary to maintain the health, safety and welfare of the community.

If you have any questions, please contact me at (949) 644-3725.



Detective Bryan Moore
ABC Liaison/Vice/Intelligence



Craig Fox, Captain
Detective Division Commander

Attachment No. PC 10

The Landing Square Footage
Tracking Tables

Table 2. The Landing Shopping Center**3101-3121 Newport Blvd. and 3100-3138 Balboa Blvd.**

Last Updated: 12-22-10

Table 1. Current Parking Summary

| Proposed use | Sq ft | Tenant | Parking Requirement at 1 space/200 sq ft | Discretionary Application No. |
|--------------|--------|--------------|--|-------------------------------------|
| Grocery | 28,221 | Pavillion's | 142 | Plan Check No. 1590-2010 |
| S3101 | 1,700 | Chipotle | 9 | UP2010-017, OD2010-004 (PA2010-096) |
| S3107 | 1,878 | Crow Burger | 9 | UP2010-036 (PA2010-155) |
| S3109 | 738 | Retail | 4 | |
| S3115 | 900 | Retail | 5 | |
| S3117 | 761 | Retail | 4 | |
| S3121 | 1,614 | Retail | 8 | |
| S3130 | 2,918 | Retail | 15 | |
| S3134 | 903 | Retail | 5 | |
| S3136 | 1,003 | Retail | 5 | |
| S3138 | 998 | Retail | 5 | |
| S3142 | 2,083 | Gina's Pizza | 10 | |
| Storage | 95 | N/A | 0 | |
| S3152 | 4,000 | Chase | 20 | Plan Check No. 1642-2010 |
| TOTAL | 47,878 | N/A | 240 | |

The Landing Shopping Center
3101-3121 Newport Blvd. and 3100-3138 Balboa Blvd.

Last Updated: 12-22-2010

Table 2. Summary of Eating and Drinking Establishments

| Suite Number | Gross Square Footage of Tenant Suite | Tenant | Gross Floor Area Plus Outdoor Dining Area Parked Toward Max. 15 Percent | Parking Requirement at 1/200 sq ft of gross interior floor area | Net Public Area Parked |
|--------------|--------------------------------------|-------------|---|---|------------------------|
| S3101 | 1,700 | Chipotle | 1,911 | 9 spaces | 711 |
| S3107 | 1,878 | Crow Burger | 1,975 | 4 spaces | 747 |
| TOTAL | 3,578 | | 3,886 | 13 spaces | 1458 |

Total Eating and Drinking Establishments Square Footage Parked: 3,886 sq ft

Total Maximum Eating and Drinking Establishment Square Footage: 7,182 sq ft

Percentage of 15 Percent Currently Utilized: 54%

Attachment No. PC 11

Project plans

THE DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS PREPARED BY THE ARCHITECT FOR THIS PROJECT ARE INSTRUMENTS OF THE ARCHITECT'S SERVICE FOR USE SOLELY WITH RESPECT TO THIS PROJECT AND UNLESS OTHERWISE PROVIDED, THE ARCHITECT'S SERVICES IN CONNECTION WITH THIS PROJECT, DRAWINGS AND SHALL REMAIN ALL RIGHTS, CLAIMS, STATUTORY AND OTHER PERTINENT RIGHTS INCLUDING THE COPYRIGHT IN THE ARCHITECT'S DRAWINGS OR SPECIFICATIONS OR OTHER DOCUMENTS SHALL NOT BE LOANED BY THE OWNER OR OTHERS ON OTHER PROJECTS. FOR ADDITIONS TO THIS PROJECT, THE ARCHITECT'S CONSENT AND SIGNATURE OF THIS PROJECT BY OTHERS (EXCEPT BY AGREEMENT IN WRITING BY THE ARCHITECT

Crow Burger Kitchen
at The Landing
3107 Newport Boulevard
Newport Beach, Ca 92663



FLOOR PLAN

SCALE
1/4" = 1'-0"

DRAWN BY SHEET NUMBER

CHECKED BY _____

COO — **A2.0**
SCALE

References

1027 OF SHEETS

1)

3/2/2011

Attn: Michael Toerge
Planning Commission

Regarding Crow Burger Kitchen

Application PA 2010-155 Project File No.

Use Permit VP 2010-036

RECEIVED BY
PLANNING DEPARTMENT

MAR 02 2011

Dear Planning Commission,

I will not be able to attend the meeting Thursday March 3rd so am writing this letter in opposition to the request for sale of beer and wine, for the following reasons.

I live directly across Balboa Blvd on the corner at 129 31st St. There is a cross walk adjacent to the establishment which many times I hear screeching brakes as people cross the street even without a drink or two. (On Balboa Blvd)

Several years ago, Gallo's Italian Sub. wanted a beer and wine permit and were denied. The cross walk is at their front door on Balboa Blvd.

I received a letter from the Alcohol Beverage Control ^{that} and stated the request

2)

was denied. If Crow Burger gets a permit, I'm sure Gallo's would re-apply for a liquor license.

The noise can be heard at times from the establishment on Newport Blvd. I would not want any additional noise so close to my home and the cross walk more dangerous than it already is.

Please deny the permit.

Many thanks!

Lila Morgan

129 31 st

Newport Beach 92663

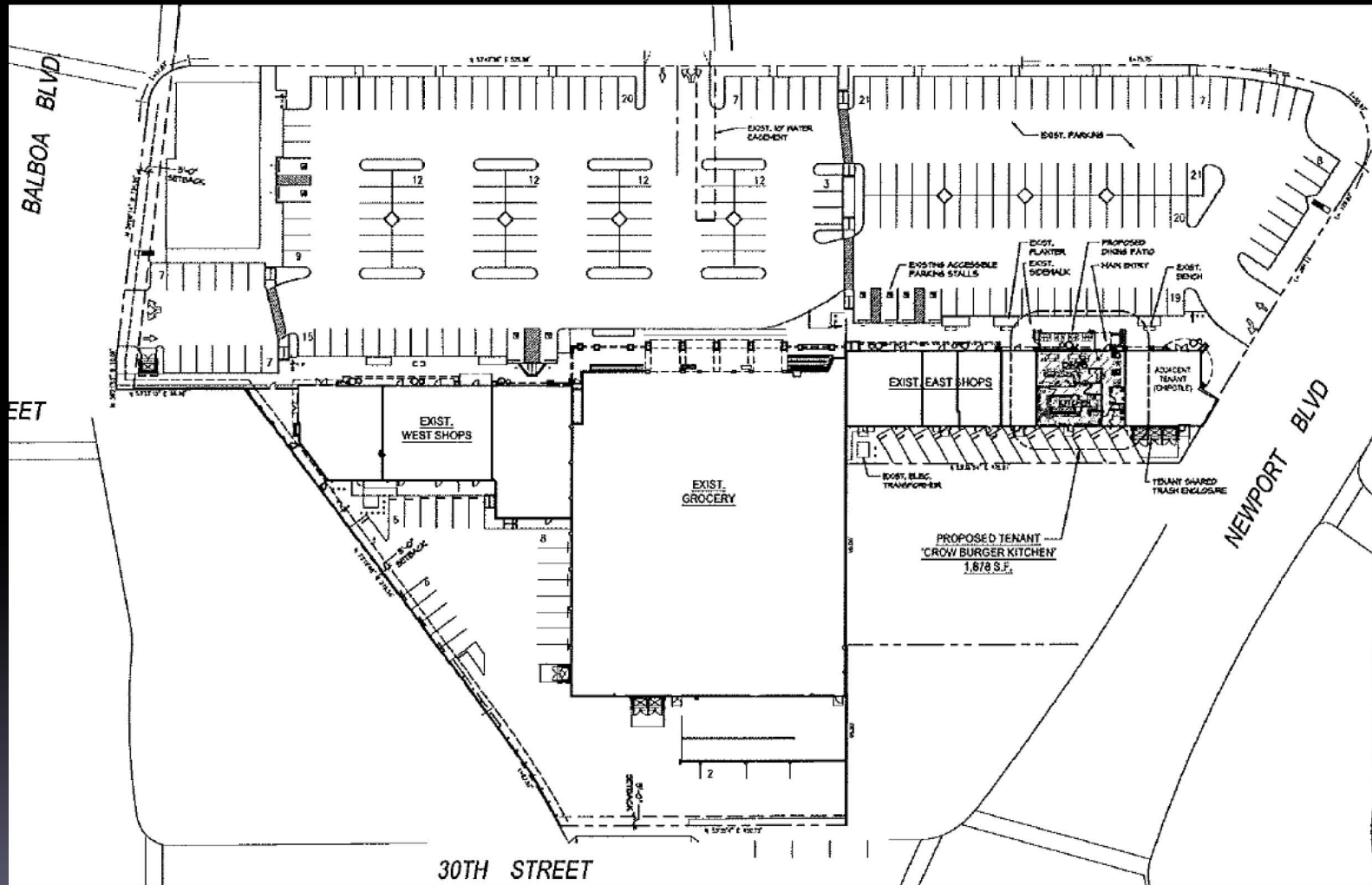
949-673-6881



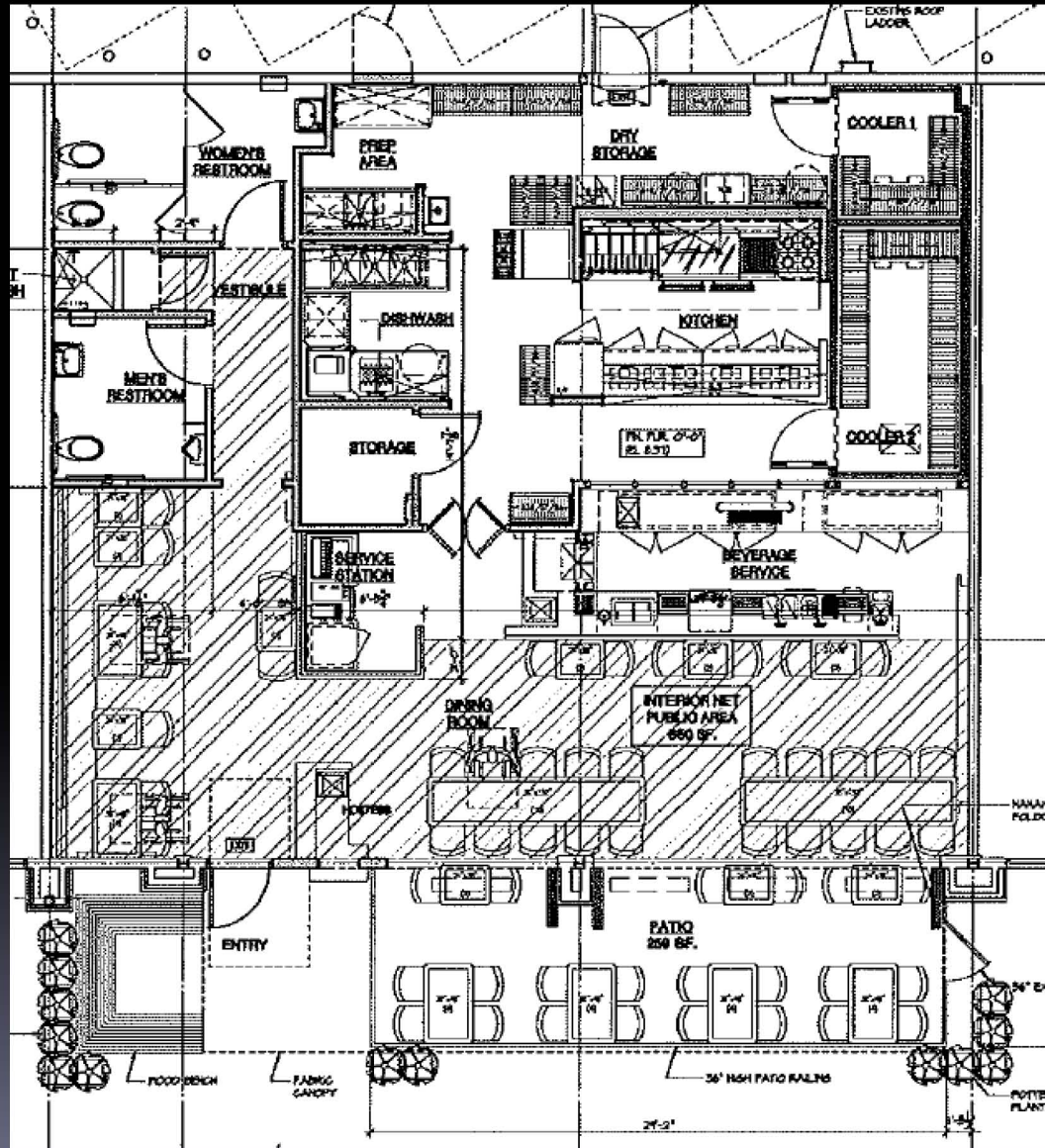
Planning Commission March 3, 2010

**CROW BURGER KITCHEN APPEAL
USE PERMIT NO. UP2010-036
(PA2010-155)**

Site Plan



Floor Plan



The Landing Restaurant Stats

| | Crow Burger | Chipotle |
|---------------------------------|-------------|-------------|
| Tenant Gross Floor Area | 1,878 sq ft | 1,700 sq ft |
| Interior Net Public Area | 650 sq ft | 500 sq ft |
| Outdoor Patio Area | 259 sq ft | 336 sq ft |
| Interior Seats | 42 seats | 22 seats |
| Outdoor Patio Seats | 22 seats | 20 seats |

Summary of Eating and Drinking Establishments

| Tenant | 25% of Net Public Area | Outdoor Patio in Excess of 25% of Net Public Area | Total Area Parked for Restaurants |
|---|------------------------|---|-----------------------------------|
| Chipotle | 125 | 211 | 1,911 |
| Crow Burger | 162 | 97 | 1,975 |
| Total | 287 | 308 | 3,886 |
| Total Permitted | | 600 | 7,182 |
| % of Maximum Currently Utilized | | 51% | 54% |
| Interior Gross Floor Area of Shopping Center: 47,878 sq ft | | | |

The Landing Parking Statistics

Outdoor Patio Seats
**Total Parking Spaces
Waived**

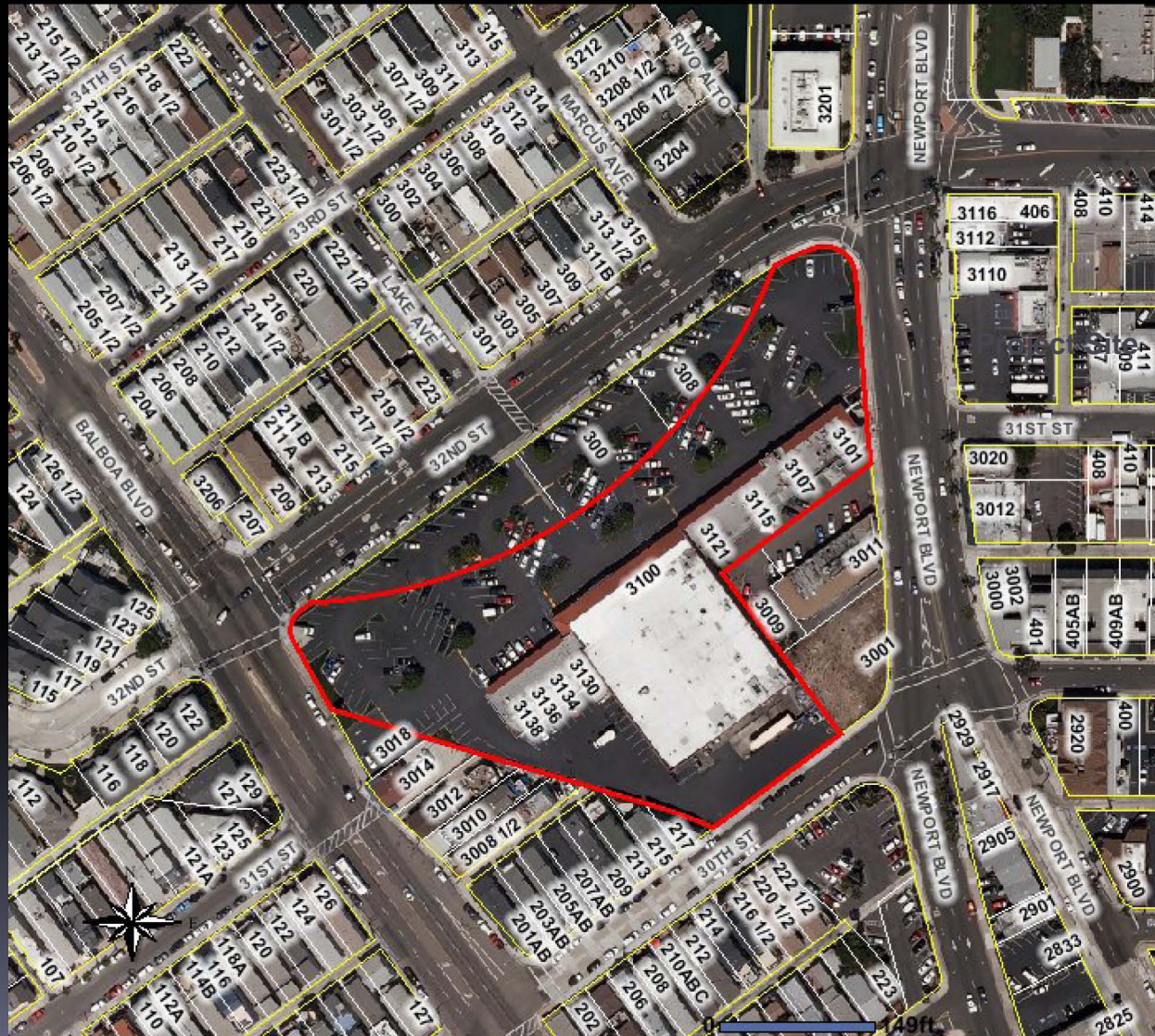
20 seats
Eight (8) parking spaces

Hours of Operation

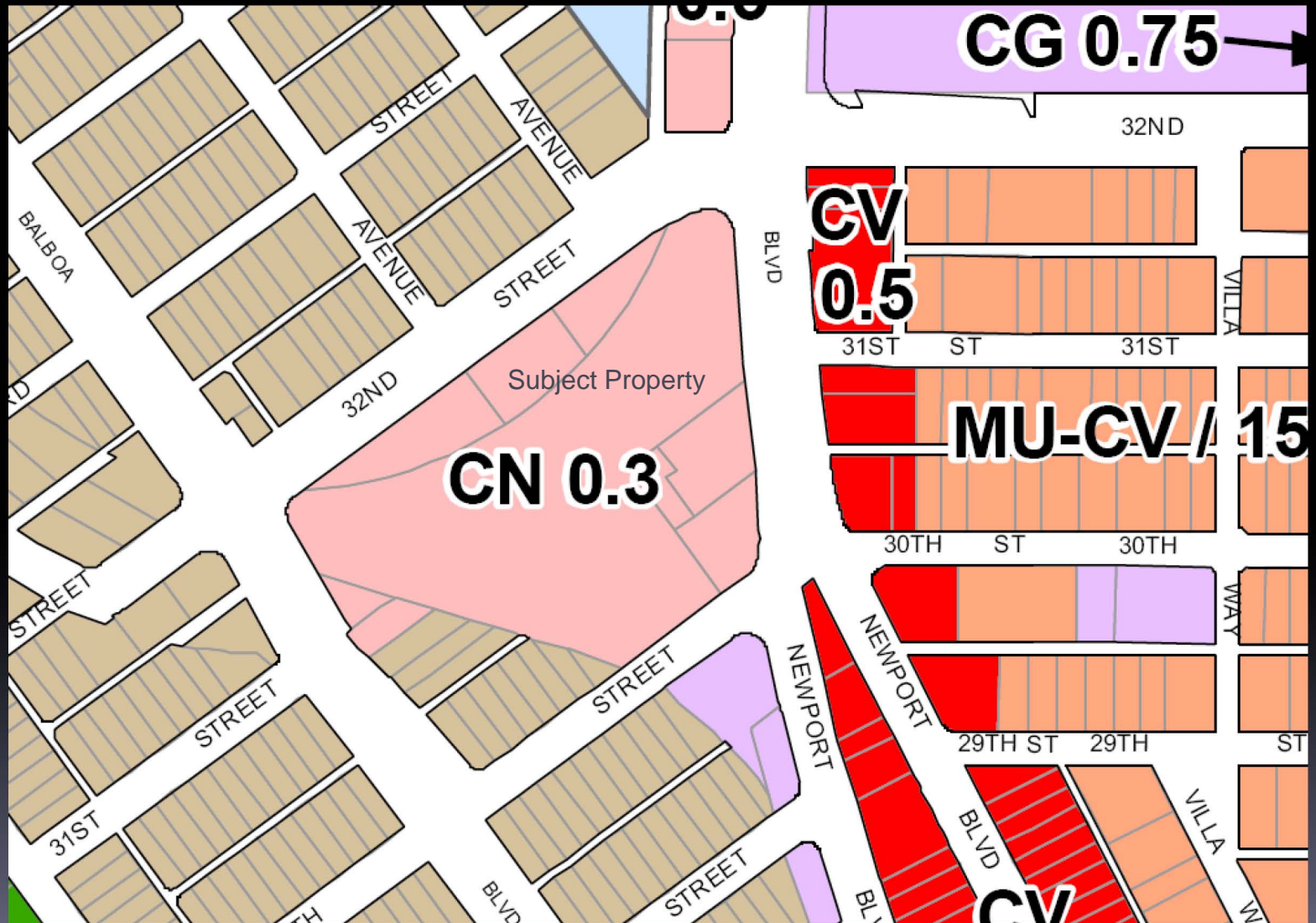
Outdoor Dining 9:00 a.m. to 10:00 p.m.

- End

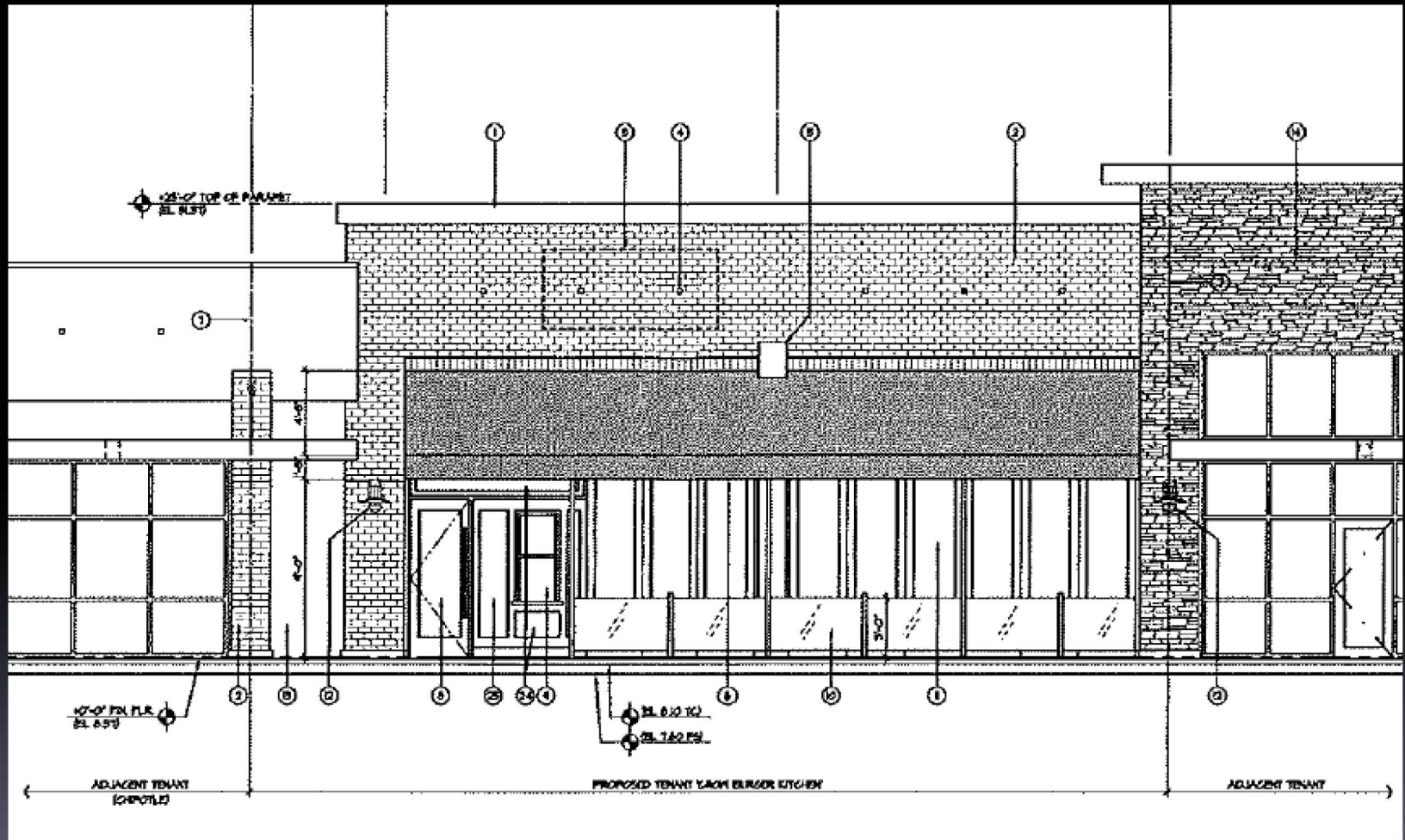
Vicinity Map



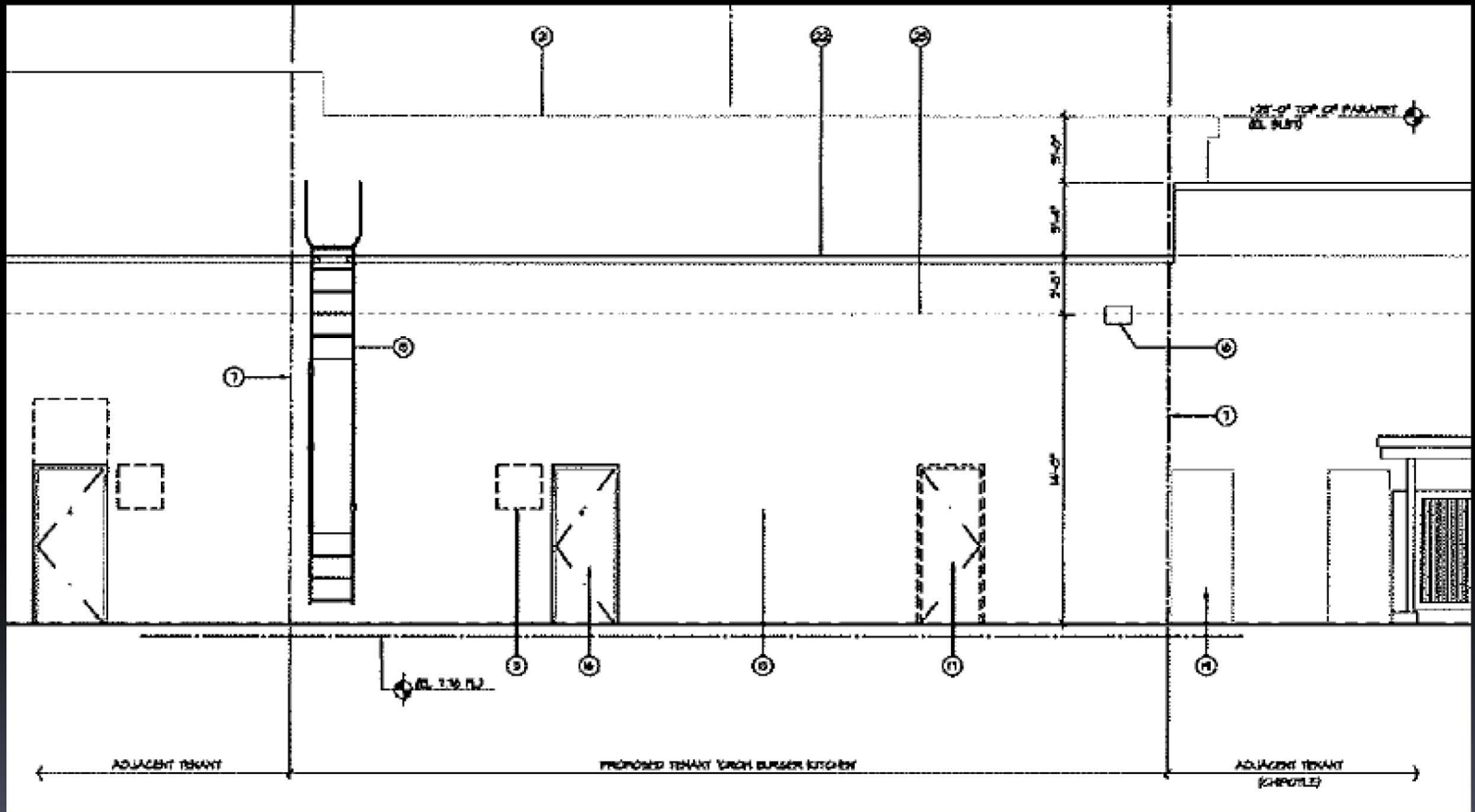
GP, Zoning, and CLUP



North Exterior Elevation



South Exterior Elevation



**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

March 3, 2011
Agenda Item ⁵

SUBJECT: Malarky's Irish Pub - (PA2010-172)
3011 Newport Boulevard
▪ Conditional Use Permit No. UP2010-039
▪ Comprehensive Sign Program No. CS2011-002

APPLICANT: Malarky's Irish Pub Inc.

PLANNER: Jaime Murillo, Associate Planner
(949) 644-3209, jmurillo@newportbeachca.gov

PROJECT SUMMARY

The application consists of a conditional use permit request to expand an existing eating and drinking establishment and to allow for the use of off-site parking. The application also includes a request for a comprehensive sign program to allow more than 3 signs on a single-tenant building.

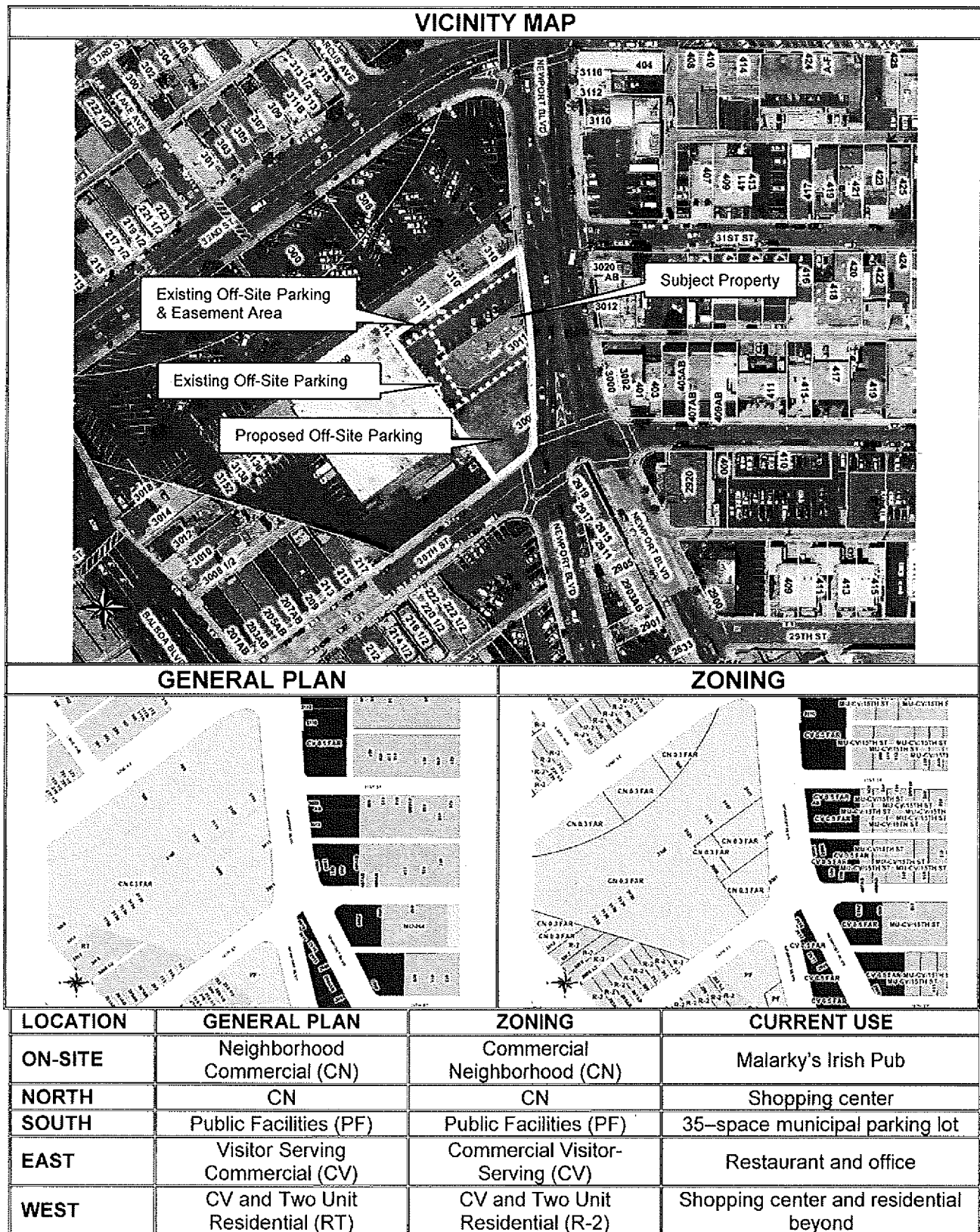
RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Use Permit No. UP2010-039 and Comprehensive Sign Program No. CS2011-003 (Attachment No. PC1).

INTRODUCTION

Project Setting

The subject property is located on the northwest corner of the intersection of Newport Boulevard and 30th Street on the Balboa Peninsula. Surrounding land uses include The Landing shopping center to the north and west, Mama D's restaurant and an office building to the east across Newport Boulevard, and a 35-space municipal parking lot to the south. Beyond the loading dock of the shopping center to the west are several single-unit and two-unit residential dwellings on 30th Street.



The subject property consists of three parcels and 20-foot-wide easement for pedestrian and vehicular access and vehicular parking (see *Vicinity Map*). The restaurant/pub building itself and a portion of the required parking are located on the large, central parcel fronting Newport Boulevard. The balance of the required parking is located off-site on the 20-foot-wide easement to the north of the building and on the small parcel to the west. The applicant has also recently constructed a new parking lot on the former vacant lot south of the building in anticipation of the increased parking demand associated with this subject application.

The building consists of 4,966 square feet of gross floor area, of which only 1,150 square feet is considered Net Public Area (NPA)¹. The remaining floor area is used for office space, kitchen, food preparation, food storage, and restrooms. The existing furniture layout consists of a large, central bar and five bar tops located around the perimeter of the establishment. Sit-down dining is limited and consists of one booth and four tables.

Project Description

The applicant took ownership of the establishment in April of 2010 and is proposing to remodel and expand the establishment as follows:

1. **Remodel-** To more efficiently utilize the floor area within the existing building, the applicant is proposing to remodel the existing floor plan to include a new dining room, enlarged restrooms that are handicapped accessible, a new waiter service station, and a reduction of office space and food storage. As required by Building Code, the remodel will include the installation of fire sprinklers and a grease interceptor.
2. **Interior Dining Room Expansion-** To allow for increased food service, the applicant is proposing to add approximately 565 square feet of sit-down dining area. The dining area will consist of three new booths and approximately 11 new tables. The total interior NPA of the facility will increase to 1,715 square feet.
3. **Outdoor Dining Patio-** A new 782-square-foot outdoor dining patio is proposed to be constructed on the north side of the building. The applicant is proposing to provide only one exit from the patio, which will limit the maximum occupant load to a total of 49 persons. A 9-foot-8-inch-high glass barrier will be used to surround the patio and will provide for sound-attenuation from the vehicular noise from Newport Boulevard.

¹ **Area, Net Public.** The total area used to serve customers, including customer sales and display areas, customer seating areas, service counters, and service queue and waiting areas, but excluding restrooms and offices, kitchens, storage and utility areas, and similar areas used by the employees of the establishment.

4. **Facade Improvements** - The applicant is proposing to improve the exterior appearance of the building by removing the changeable sign marquee and painted signs, and add new foam cornices, decorative metal trim and an antique clock, new signage, new awnings, and a new entry canopy. The applicant is proposing an architectural theme of a traditional Irish Pub.

Proposed plans have been included as Attachment No. PC2. The total NPA of the establishment, including the interior dining room expansion and outdoor dining patio will be 2,497 square feet. No changes to the existing hours of operation are proposed (7:00 a.m. to 2:00 a.m., daily). During the day, the applicant intends to promote food service and operate as a restaurant establishment. In the late evening, the applicant intends to conclude food service and continue operating primarily as a bar. To address the increased parking demands of the establishment when operating as a bar and to minimize impacts to the residential uses in the vicinity, the applicant is proposing to close the outdoor dining patio at 11:00 p.m. No live entertainment or dancing is proposed; however, amplified music will be provided through a digital music jukebox.

Background

On May 20, 1976, the Planning Commission approved Use Permit No. 1792, which established Marlarky's Irish Pub, and accepted an off-site parking agreement for a portion of the required parking (see *Off-Site Parking* section for details). The use permit specifically permitted the establishment of a restaurant facility with on-sale alcoholic beverages. The hours of operation were limited to between 5:00 p.m. and 2:00 a.m. on weekdays and between 12:00 noon and 2:00 a.m. on weekends and holidays. On September 18, 1997, the Planning Commission approved an amendment to Use Permit No. 1792, allowing a change in the hours of operation to between 7:00 a.m. and 2:00 a.m., daily. A condition of approval was also added clarifying that the approval is for the continuation of a bar/lounge type facility as defined by Title 20 of the Municipal Code, with the principal purpose for the sale and service of alcoholic beverages with incidental food service.

DISCUSSION

Analysis

Use Classification

As stated above, when Use Permit No. 1792 was amended in 1997, a condition of approval was added clarifying that the approval is for the continuation of a bar/lounge type facility as defined by Title 20 of the Municipal Code. However, when the Zoning Code was updated in October of 2010, the definition of Bar, Lounge, and Nightclub changed and is now defined as *an establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premise license from the California State Department of Alcoholic Beverage Control*

(ABC)... Persons under 21 years of age are not allowed to enter and remain on the premises. The applicant holds a Type 47 (On-Sale General- Eating Place) ABC license, which is not considered a public premise license; however, the applicant intends to continue operating as a bar in the late hours and as part of his security plan will not allow persons under 21 years of age within the establishment. The applicant also intends to operate the establishment as a restaurant during the day and intends to significantly expand breakfast, lunch, and dinner food service for persons of all ages. Therefore, the establishment's use classification will fall under the definition of Food Service, Late Hours².

Required Parking

A total of 47 parking spaces are proposed on-site and within the adjacent off-site parking spaces. Pursuant to Section 20.40.060 of the Zoning Code, Food Service uses are required to provide off-street parking within a range of one space for each 30 to 50 square feet of NPA, depending on the physical design, operational characteristics, and location of the establishment. Use Permit No. 1792 (amended) established a parking ratio of one space per 44 square feet of NPA during daytime hours when the establishment operates as a restaurant, and a higher parking ratio of one space per 40 square feet of NPA during the evening when the establishment operates as a bar³. Staff believes continuing to require the same variable parking ratios is appropriate for the following reasons:

- During the day, the intensity of the operation as a restaurant is substantially less than its nighttime operation as bar.
- The additional sit-down dining opportunities provided with the new interior dining room and outdoor dining patio are intended to expand food service, enhancing the restaurant operation during the day.
- The table and seating configuration will remain unchanged during the nighttime operation when the establishment operates as a bar, maintaining a lower occupant load in the sit-down dining areas.

² **Food Service, Late Hours.** An establishment that sells food and beverages, including alcoholic beverages, prepared for primary on-site consumption, and that has all of the following characteristics: 1) Establishment does have late hours; 2) Customers order food and beverages from individual menus; 3) Food and beverages are served at a fixed location (i.e., booth, counter, or table); and 4) Customers pay for food and beverages after service and/or consumption.

Late Hour Operations. Facilities that provide service after 11:00 p.m.

³ The rationale behind the split parking ratio was also related to the fact that the previous operator of Malarky's Irish Pub also owned and operated the Cannery Restaurant. The offices and storage space were jointly utilized to support Malarky's Irish Pub and the Cannery restaurant operations, and therefore, additional parking (3 spaces) was required during the day when the office space was in use. In the evening, the offices were not in use and the additional parking could be utilized exclusively for Malarky's Irish Pub.

- The outdoor dining patio is proposed to close at 11:00 p.m., reducing the capacity of the establishment when it operates primary as a bar.
- The location of the establishment on the Balboa Peninsula affords the opportunity for significant walk-in and bike-in trade.
- A 35-space municipal parking lot is located directly across 30th Street and provides convenient parking should parking within the establishment's parking lot be full. Parking is also free of charge after 6:00 p.m. within the municipal lot and is in lower demand in the evenings when the intensity of the establishment is likely to increase.

Section 20.40.040 of the Zoning Code also includes a provision that excludes a portion of outdoor dining area (equal to 25 percent of the interior NPA) from required parking calculations. Based on the proposed interior NPA of 1,715 square feet, 429 square feet of outdoor dining is excluded from the parking calculations ($1,715 \text{ sf} \times 0.25 = 428.75 \text{ sf}$). Therefore, a total of 2,068 square feet of NPA (1,715 sf of interior NPA + 353 sf of remaining outdoor dining) is utilized for the purposes of calculating required parking. Based on the variable parking ratios discussed above, a total of 47 parking spaces will be required during the day when the establishment operates as a restaurant and a total of 43 spaces will be required during late hours (after 11:00 p.m.) when the establishment operates as a bar. Table 1 below provides a parking breakdown and comparison with the existing approval.

| Table 1 – Parking Requirements and Comparison | | |
|--|---|---|
| | Approved Project | Proposed Project |
| Total Net Public Area | 1,150 sf | 2,497 sf (includes 782 sf outdoor dining) |
| Net Public Area for Parking Purposes | 1,150 sf | 2,068 sf (includes 353 sf of outdoor dining) |
| Hours | Entire Facility 7:00 a.m. to 2:00 a.m., daily | Bar and Dining Area 7:00 a.m. to 2:00 a.m., daily Outdoor Dining Area 7:00 a.m. to 11:00 p.m., daily |
| Parking Required | Day- 1 per 44 sf ($1150/44=26$ spaces) Late Night- 1 per 40 sf ($1150/40=29$ spaces) | Day- 1 per 44 sf ($2068/44=47$ spaces) Late Night- 1 per 40 sf ($1715/40=43$ spaces) |
| Parking Provided | 29 spaces | 47 spaces (including proposed off-site parking) |
| Parking Surplus/Deficit | 0 | Day - 0 spaces Late Night - 4 space surplus |

Off-Site Parking

Use Permit No. 1792 authorized the existing establishment to utilize off-site parking on the 20-foot-wide easement to the north of the building and on the small parcel to the west. A reciprocal easement agreement provides the establishment with exclusive rights to the parking spaces located within the 20-foot-wide easement in perpetuity. The small parcel to the west is owned by the same property owner of subject property, William J. Cagney Trust, but was never merged into one parcel, thereby requiring an off-site parking approval. The new parking lot located south of the building is also owned by the same property owner; however, because the property owner has not merged the parcels into one lot, the formal approval of off-site parking is required to formally utilize the new parking lot. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site may be approved with a conditional use permit. In addition the standard conditional use permit findings, the Planning Commission must make the following findings below:

- 1. The parking facility is located within a convenient distance to the use it is intended to serve;*
- 2. On-street parking is not being counted towards meeting parking requirements;*
- 3. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area; and*
- 4. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

Staff believes sufficient facts exist in support of each finding. The proposed off-site parking lot is located adjacent to the subject property and the parking lot has been designed as an extension of the existing parking lot for the establishment. The required 47 parking spaces are provided entirely within the parking lot. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area. The northerly driveway will be modified for one-way ingress and the southerly driveway will be provided for both ingress and egress circulation. The applicant has entered into a 10-year lease, with an option to renew for an additional 5 years, for use of the three parcels and 20-foot-wide easement (Attachment No. PC3- Basic Lease Provisions). Given that the William J. Cagney Trust owns the subject building and associated off-site parking lots, and has entered into a long-term lease with the applicant, staff believes the parking facility will remain available, marked, and maintained for the use of the subject establishment. A condition of approval has also been added requiring the 47 spaces to be permanently provided on-site or within the adjoining off-site lots.

Late-Hour Operations

Pursuant to Section 20.48.090 of the Zoning Code, the Planning Commission must consider the following potential impacts upon adjacent or nearby uses when reviewing an application to allow late-hour operations:

- 1. Noise from music, dancing, and voices associated with allowed outdoor uses and activities;*
- 2. High levels of lighting and illumination;*
- 3. Increased pedestrian and vehicular traffic activity during late and early morning hours;*
- 4. Increased trash and recycling collection activities;*
- 5. Occupancy loads of the use; and*
- 6. Any other factors that may affect adjacent or nearby uses.*

The nearest residential uses are located to the west on 30th Street, across from the loading dock of the adjacent shopping center. The nearest dwelling is located approximately 130 feet from the closest extent of the new parking lot boundaries and approximately 220 feet from the building itself. The adjacent shopping center building and an 8-foot-high block wall provides a screening and noise buffer from the project site. The applicant has also planted a row of bamboo trees along the block wall to help visually screen the establishment.

The applicant is not proposing any live entertainment or dancing; however, amplified music through the use of a jukebox is currently used. A condition of approval has been included requiring the exterior doors and windows to be maintained in the closed position at all times, except for the ingress and egress purposes. Significant noise impacts from the proposed outdoor dining patio are not anticipated given its location on the north side of the building, its distance of approximately 300 feet from the nearest residential dwelling, and the shielding by the existing shopping center building. The outdoor dining patio is also surrounded by a 9-foot-8-inch-high glass barrier that should help attenuate sound and will be completely closed by 11:00 p.m. No new lighting is proposed with the exception of illumination for the new signage and the outdoor patio. Existing exterior lighting exists only to illuminate the parking lot.

Malarky's Irish Pub is an existing establishment that currently operates as a bar until 2:00 a.m. Although the outdoor dining patio is proposed to close at 11:00 p.m., the interior dining expansion is expected to double the existing interior occupant load of 91 persons. The proposed plans indicate an interior occupant load of 198 persons; however, preliminary review by the Building Department reveals that the figure will likely

be reduced by approximately 20-30 persons after the plans are reviewed for Code compliance during building plan check. Given the increased occupancy, increased pedestrian and vehicular activity is expected during late and early morning hours. This is a primary concern for the residential neighbors on 30th Street due to the potential for patrons to loiter in the parking lot and adjacent streets, intoxicated patrons leaving the establishment, and noise from patrons walking home. The applicant has submitted a detailed security plan for consideration that outlines their plan for minimizing alcohol-related problems and crowd management (Attachment No. PC4). Should the Planning Commission approve all or any part of the conditional use permit request, the applicant will be required to obtain an Operator License from the Police Department. The Operator License will provide for enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

A temporary increase in traffic during late and early morning hours on weekends is also expected on 30th Street when the establishment closes. Left-turn movements out of the parking lot and northbound on Newport Boulevard are prohibited, and u-turns from the southbound left turn pocket on Newport Boulevard are also prohibited; therefore, patrons leaving the establishment and wanting to travel northbound out of the Peninsula are expected to either: 1) travel south on Newport Boulevard to 28th Street, where they can make two quick left-turns onto northbound Newport Boulevard; or 2) travel down 30th Street and make a right turn northbound on Balboa Boulevard. Traffic noise associated with the later option may be audible to the residents on 30th Street. Unfortunately, after discussing the concern with Traffic Engineering and reviewing the roadway geometrics, modifying the striping within Newport Boulevard to allow the left-turn movement will not be possible.

The trash enclosure is not currently provided on-site; however, the applicant is proposing to construct a new enclosure in the northwest corner of the parking lot. The design and area of the enclosure is proposed to comply with the design requirements of the Zoning Code.

Police Department Concerns

The Newport Beach Police Department provided staff a memorandum expressing concerns with the applicant's request (Attachment No. PC5). The Police Department is concerned that the increased occupant load of the establishment will result in an increase in police related activities and calls for police services. The resources required to address these potential events would detract from their ability to provide police services to other areas of the community. The project is located in a Police Reporting District (RD15) that is the most concentrated for retail alcohol establishments in the City and has a crime rate of 483.95 percent above the Citywide RD average. For these reasons, the Police Department is recommending that the outdoor dining area close at

10:00 p.m. and that the Planning Commission deny the applicant's request for the interior expansion.

Should the Planning Commission approve the applicant's request, the Police Department has recommended several conditions of approval to regulate and control potential nuisances that the establishment may create. The Police Department has also indicated that they would issue the initial Operator License based on the decision of the Planning Commission.

Conditional Use Permit Findings

Pursuant to Section 20.52.020.F of the Zoning Code, the Planning Commission must make the following findings in order to approve a conditional use permit:

- 1. The use is consistent with the General Plan and any applicable Specific Plan;*
- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*
- 3. The design, location, size, operating characteristics of the use are compatible with the allowed uses in the vicinity;*
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Staff believes sufficient facts exist in support of each finding. The operation of a Food Service, Late Hours use, with alcoholic beverages, is consistent with the purpose and intent of the Neighborhood Commercial (CN) land use designation of the General Plan and Commercial Neighborhood (CN) Zoning District. The CN designation and district are intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented primarily to serve the needs and maintain compatibility with the residential uses in the area. Food Service uses can be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.

As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments and solid waste storage, including the installation of a grease interceptor. The recent parking lots improvements and proposed facade improvements will have a positive impact on the overall aesthetics and economic health

of the community, and will hopefully promote further revitalization of the other commercial properties located along Newport Boulevard.

The project has been reviewed and conditioned to ensure that potential conflicts with the surrounding land uses are minimized to the extent possible to maintain a healthy environment for both residents and businesses. Adequate parking will be provided for the proposed operation at all times of the day, with a surplus of parking provided during late hours. The proposed outdoor dining patio will close by 11:00 p.m., once full meal service has concluded. The location and design of the outdoor dining patio should buffer the nearby residential uses from any potential noise disturbances when the outdoor patio is operational. To ensure that the interior expansion of the establishment does not create a detrimental impact during late hours, the operator will be required to secure an Operator License and will be required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance to areas surrounding the establishment and adjacent properties during business hours. Should the operator be unable to abide by the conditions of approval or prevent objectionable conditions from occurring, the Police Department will have the authority to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

Comprehensive Sign Program

The applicant is proposing a total of five walls signs, eight awning signs, and one projecting sign. Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever 3 or more signs are proposed for a single-tenant development. The purpose of a sign program is to integrate all of a project's signs, including a project identification sign, with the overall site design and the structure's design into a unified architectural statement. It is also intended to provide flexibility in the application of the City's sign regulations to projects that have multiple signs when it can be shown that the proposed program achieves the purposes of the City's sign ordinance.

The applicant is proposing to renovate the exterior appearance of the building in the architectural theme of a traditional Irish pub (Attachment No. PC6- Examples). The applicant's proposed plans include a Comprehensive Sign Program that defines the size, number, and design of all signage for the development (Attachment No. PC2 – Sheets A3.1 and A3.2). Staff has also prepared a Sign Program Matrix to supplement the plans and to specifically define the permitted sign standards for this project (Exhibit B of Attachment No. PC1). The Sign Program proposes the following deviations from the City's sign code regulations:

- Number of Signs – Maximum of one sign allowed per primary and secondary building frontage. The proposed signage includes three wall signs, four awning signs, and one projecting sign on the primary frontage. The secondary frontages include one wall sign and two awnings signs.

- Wall Signs (Separation) – Signs located on adjacent walls on the same building shall be separated by a minimum of 30 feet measured along the exterior walls of the building. The proposed wall signs maintain a separation as close as 18.5 feet.
- Wall Signs (Centering) - Signs shall be located within the middle 50 percent of the building frontage. The proposed wall signs on the primary frontage are equally spaced from each other and are located within the middle 75 percent of the building frontage. The signs on the secondary frontages are located towards the front corner of the building closest to Newport Boulevard.

The sign code normally allows one wall sign up to 75 square feet in area on the primary frontage; however, due to the existing tower element on the building that divides the front facade, one large wall sign cannot be achieved. Breaking up the signage into three separate smaller wall signs allows for a more aesthetically pleasing orientation of signage and achieves the applicant's design theme of a traditional Irish pub. The projecting sign and awning signs are minor and incidental to the wall signage. Combined, the proposed signage does not exceed the allowable sign area for each frontage. Also, given the orientation of the building, staff believes the deviations in the wall signs separation and centering are merited to allow the applicant more effective sign placement. Allowing the signs on the secondary frontages to be located towards the front corner of the building allows for increased sign visibility for motorists driving along Newport Boulevard.

Pursuant to Section 20.42.120.E, a Comprehensive Sign Program shall comply with a number of standards. Staff believes sufficient facts exist in support of each standard and has included such facts in the attached draft resolution.

Correspondence

The applicant has provided various letters in support of the project. The letters have been included at Attachment No. PC7.

Environmental Review

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). This exemption authorizes additions to existing structures of up to 10,000 square feet. The proposed project consists of a 565-square-foot interior dining room expansion and the construction of a new 782-square-foot outdoor dining patio, and therefore, qualifies under this exemption.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Alternatives

1. The Planning Commission may suggest specific project modifications or operational changes that are necessary to alleviate concerns. If the changes are substantial, the item should be continued to a future meeting to allow redesign of the project.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission should deny the application requests.

Prepared by:


Jaime Murillo, Associate Planner

Submitted by:


Patrick J. Alford, Planning Manager

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions/Sign Program Matrix
- PC 2 Project Plans
- PC 3 Basic Lease Provisions
- PC 4 Security and Crowd Management Plan
- PC 5 Police Department Memorandum
- PC 6 Design Examples
- PC 7 Correspondence in Support

Attachment No. PC 1

Draft Resolution with Findings and
Conditions/Sign Program Matrix

RESOLUTION NO. ####

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE
PERMIT NO. UP2010-013 AND COMPREHENSIVE SIGN
PROGRAM NO. CS2011-002 FOR AN EATING AND DRINKING
ESTABLISHMENT LOCATED AT 3011 NEWPORT BOULEVARD
(PA2010-172)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS
FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Malarky's Irish Pub Inc., with respect to property located at 3011 Newport Boulevard, Assessor Parcel Number's 047-060-01, 047-060-06, and 047-060-10, requesting approval of a conditional use permit and a comprehensive sign program.
2. The applicant filed an application for a conditional use permit request to expand an existing eating and drinking establishment and to allow for the use of off-site parking. The expansion includes remodeling the interior of the facility to create approximately 565 square feet of new dining area and the construction of an approximately 782-square-foot outdoor dining patio. The application also includes a request for a comprehensive sign program to allow more than three signs on a single-tenant building.
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Neighborhood Commercial (CN).
5. A public hearing was held on March 3, 2011 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
2. This exemption authorizes additions to existing structures of up to 10,000 square feet. The proposed project consists of a 565-square-foot interior dining room expansion and the construction of a new 782-square-foot outdoor dining patio, and therefore, qualifies under this exemption.

SECTION 3. REQUIRED FINDINGS.

1. Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever 3 or more signs are proposed for a single-tenant development. In accordance with Section 20.67.120.E, a Comprehensive Sign Program shall comply with a number of standards. The following standards and facts in support of such standards are set forth:

Standard:

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42: Signs], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

Facts in Support of Standard:

- A-1. In compliance with the purpose and intent of the Sign Code, the proposed Sign Program provides the use with adequate identification without excessive proliferation of signage. Furthermore, it preserves community appearance by regulating the type, number, and design of signage.

Standard:

- B. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

- B-1. The site is for use of a single tenant only, and the signage has been designed integral with the design and character of the building.
- B-2. The applicant is proposing to renovate the exterior appearance of the building in the architectural theme of a traditional Irish pub.
- B-3. The existing tower element divides the primary frontage of the building requiring signage to be broken up into three separate wall signs. The remaining awning signs and projecting sign are minor and incidental to the primary wall signs. The north and south elevations and considered secondary frontages and consist of only one wall sign and two incidental awning signs.

Standard:

- C. *The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Facts in Support of Standard:

- C-1. The Sign Program submitted for the project addresses all project signage. Temporary and exempt signs not specifically addressed in the Program shall be regulated by the provisions of Chapter 20.42.

Standard:

- D. The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Facts in Support of Standard:

- D-1. The project site is for the sole use of Malarky's Irish Pub and has been designed to be effective for such a use.
- D-2. It is not anticipated that future revisions will be necessary to accommodate constant changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed plans.
- D-3. Consistent with Chapter 20.42, the Planning Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Standard:

- E. The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.*

Facts in Support of Standard:

- E-1. The Sign Program requests deviation in number of signs and location.
- E-2. The sign code normally allows one wall sign up to 75 square feet in area on the primary frontage; however, due to the existing tower element on the building that divides the front facade, one large wall sign cannot be achieved.
- E-3. Breaking up the signage into three separate smaller wall signs allows for a more aesthetically pleasing orientation of signage and achieves the applicant's design theme of a traditional Irish pub.
- E-4. The projecting sign and awning signs are minor and incidental the main wall signage. Also, given the orientation of the building, staff believes the deviations

in the wall signs separation and centering are merited to allow the applicant more effective sign placement.

- E-5. Allowing the signs on the on the secondary frontages to be located towards the front corner of the building allows for increased sign visibility for motorists driving along Newport Boulevard.

Standard:

- F. The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter.*

Facts in Support of Standard:

- F-1. The program does not authorize the use of prohibited signs.

Standard:

- G. Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*

Facts in Support of Standard:

- G-1. The program contains no regulations affecting sign message or content.

2. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site requires the approval of a conditional use permit. In addition to the standard conditional use permit findings, approval of off-site parking is subject to specific findings. The following findings and facts in support of such findings are set forth:

Finding:

- A. The parking facility is located within a convenient distance to the use it is intended to serve.*

Facts in Support of Finding:

- A-1. The proposed off-site parking lot is located immediately adjacent to the subject property.
- A-2. The proposed off-site parking lot has been designed as an extension of the existing parking lot for the establishment.

Finding:

- B. On-street parking is not being counted towards meeting parking requirements.*

Facts in Support of Finding:

B-1. The required 47 parking spaces are provided entirely within the parking lot.

Finding:

C. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.

Facts in Support of Finding:

C-1. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area.

C-2. The northerly driveway will be modified for one-way ingress and the southerly driveway will be provided for both ingress and egress circulation.

Finding:

D. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.

Facts in Support of Finding:

D-1. The applicant has entered into a 10-year lease, with an option to renew for an additional 5 years, for use of the three parcels and 20-foot-wide easement.

D-2. The William J. Cagney Trust owns the subject building and associated off-site parking lots, and has entered into a long-term lease with the applicant; therefore, the parking facility will remain available, marked, and maintained for the use of the subject establishment.

D-3. As a condition of approval, the required 47 spaces are to be permanently provided on-site or within the adjoining off-site lots.

3. Pursuant to Section 20.20.020 of the Zoning Code, eating and drinking establishments classified as *Food Service, Late Hours*, require the approval of a conditional use permit within the Commercial Neighborhood Zoning District. In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. The use is consistent with the General Plan and any applicable Specific Plan.

Facts in Support of Finding:

- A-1. The operation of a Food Service, Late Hours use, with alcoholic beverages, is consistent with the purpose and intent of the Neighborhood Commercial (CN) land use designation of the General Plan.
- A-2. The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented primarily to serve the needs and maintain compatibility with the residential uses in the area. Food Service uses can be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.

Finding:

- B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

- B-1. Eating and drinking establishments classified as *Food Service, Late Hours*, require the approval of a conditional use permit within the CN district.
- B-2. As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments and solid waste storage, including the installation of a grease interceptor.
- B-3. Pursuant to Chapter 5.25, the project has been conditioned requiring the operator of the establishment to secure an Operator License from the Police Department to maintain operating hours beyond 11:00 p.m.
- B-4. The applicant will be required to enter into a parking agreement for the use of off-site parking, which guarantees the long term availability of the parking facilities and shall be recorded with the County Recorder's Office.

Finding:

- C. The design, location, size, operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

- C-1. The project has been reviewed and conditioned to ensure that potential conflicts with the surrounding land uses are minimized to the extent possible to maintain a healthy environment for both residents and businesses.

- C-2. Adequate parking will be provided for the proposed operation at all times of the day, with a surplus of parking provided during late hours.
- C-3. No live entertainment or dancing is proposed; however, amplified music through the use of a jukebox will be used. A condition of approval has been included requiring the exterior doors and windows to be maintained in the closed position at all times, except for the ingress and egress of patrons.
- C-4. Significant noise impacts from the proposed outdoor dining patio are not anticipated given its location on the north side of the building, its distance of approximately 300 feet from the nearest residential dwelling, and the shielding by the existing shopping center building. The outdoor dining patio is also surrounded by a 9-foot-8-inch-high glass barrier that should help attenuate sound and will be completely closed by 11:00 p.m.
- C-5. No new lighting is proposed with the exception of illumination for the new signage and the outdoor patio. Existing exterior lighting exists only to illuminate the parking lot.
- C-6. The trash enclosure is not currently provided on-site; however, the applicant is proposing to construct a new enclosure in the northwest corner of the parking lot. The design and area of the enclosure is proposed to comply with the design requirements of the Zoning Code.

Finding:

- D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

- D-1. The Traffic Engineer and Fire Department have reviewed the configuration of the new parking lot extension and proposed changes to the existing parking lot, and have determined that the parking lot design will function safely and will not prevent emergency vehicle access to the establishment.
- D-2. The applicant is proposing to install fire sprinklers and a grease interceptor for the establishment.
- D-3. The site is currently served by public services and utilities.
- D-4. The area of the site, including the off-site parking lots, is approximately 22,680 square feet and adequate in size to accommodate the subject establishment and all required parking.

- D-5. The site is located at the northwest corner of Newport Boulevard and 30th Street, with the building fronting onto Newport Boulevard. This is an appropriate location for an eating and drinking establishment and is compatible with other commercial uses fronting Newport Boulevard.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

- E-1. The nearest residential uses are located to the west on 30th Street, across from the loading dock of the adjacent shopping center. The nearest dwelling is located approximately 130 feet from the closest extent of the new parking lot boundaries and approximately 220 feet from the building itself. The adjacent shopping center building and an 8-foot-high block wall provides a screening and noise buffer from the project site. The applicant has also planted a row of bamboo trees along the block wall to help visually screen the establishment.
- E-2. The parking lots improvements and proposed facade improvements will have a positive impact on the overall aesthetics and economic health of the community, and may promote further revitalization of the other commercial properties located along Newport Boulevard.
- E-3. Increased pedestrian and vehicular activity is expected during late and early morning hours as a result of the increased occupancy; however the applicant will be required to obtain an Operator License from the Police Department. The Operator License will provide for enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain of late-hour operations if objectionable conditions occur.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2010-039 and Comprehensive Sign Program NO. CS2011-002, subject to the conditions set forth in Exhibit A and the Sign Program Matrix included in Exhibit B, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance

with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

3. This resolution supersedes Use Permit No. 1792 and Use Permit No. 1792 (amended), which upon vesting of the rights authorized by this Conditional Use Permit No. UP2010-039, shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF MARCH, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**
*(Project-specific conditions are in italics)***PLANNING**

1. *The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)*
2. *All proposed signs shall be in conformance with the approved plans, Comprehensive Sign Program Matrix attached as Exhibit B, and provisions of Chapter 20.67 of the Newport Beach Municipal Code.*
3. *Conditional Use Permit No. UP2010-039 and Comprehensive Development Plan No. CS2011-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
4. *The approval is only for an eating and drinking establishment defined as Food Service, Late Hours as defined by Title 20 of the Municipal Code; however, the establishment may operate with the principal purpose of the sale and service of alcoholic beverages with incidental food service after the hour of 11:00 p.m.*
5. *Full meal service shall be provided during all hours of operation, except after the hours of 11:00 p.m.*
6. *The hours of operations shall be limited to between 7:00 a.m. and 11:00 p.m., daily, unless the operator of the establishment secures and maintains an Operator License pursuant to Chapter 5.25 of the Municipal Code. In no case shall the establishment be permitted to operate beyond the hours of 2:00 a.m.*
7. *The outdoor dining patio shall be closed no later than 11:00 p.m., daily.*
8. *The Operator License required to be obtained pursuant to Condition No. 6 and Chapter 5.25 of the Municipal Code, may be subject to additional and/or more restrictive conditions to regulate and control potential late-hour nuisances associated with the operation of the establishment.*
9. *The material and color of any awning or umbrella located on the outdoor dining patio shall be subject to review and approval by the Planning Division. No form of advertisement shall be placed on an awning, umbrella or elsewhere in the outdoor dining patio. The outdoor dining patio, including any awning or umbrella, shall be maintained in a clean orderly condition at all times.*

10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
12. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
13. This Conditional Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
14. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Conditional Use Permit or the processing of a new Conditional Use Permit.
15. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
16. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
17. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.
18. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
19. Water should not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards.
20. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Deputy Community Development Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Deputy Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

21. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

| | Between the hours of 7:00AM and 10:00PM | | Between the hours of 10:00PM and 7:00AM | |
|---|---|----------|---|----------|
| Location | Interior | Exterior | Interior | Exterior |
| Residential Property | 45dBA | 55dBA | 40dBA | 50dBA |
| Residential Property located within 100 feet of a commercial property | 45dBA | 60dBA | 45dBA | 50dBA |
| Mixed Use Property | 45dBA | 60dBA | 45dBA | 50dBA |
| Commercial Property | N/A | 65dBA | N/A | 60dBA |

22. No outside paging system shall be utilized in conjunction with this establishment.
23. *Recorded music or other types of sound amplification within the outdoor patio area shall only be audible to the audience within the patio area.*
24. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets within the limits authorized by this permit, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
25. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
26. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate), except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
27. *A new trash enclosure shall be constructed in the location illustrated on the approved plans. The trash enclosure shall comply with the development and location standards contained in Section 20.30.120 of the Zoning Code.*
28. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

29. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
30. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
31. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Deputy Community Development Director, and may require an amendment to this Conditional Use Permit.
32. The exterior of the premises, including signs and accessory structures, shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
33. Prior to final of the building permits, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site and adjacent areas to the Planning Division for review. The building permit shall not be finalized and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the Newport Beach Municipal Code that includes issuance of a citation of violation and monetary fines.
34. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Division and Public Works Department in conjunction with the approval of an alternate drainage plan.
35. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
36. The rear doors of the facility shall remain closed at all times. The use of the rear door shall be limited to deliveries and employee use only. Ingress and egress by patrons is prohibited in unless there is an emergency.
37. All doors and windows of the entire facility shall remain closed at all times except for the ingress and egress of patrons and employees.

-
38. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited
39. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
40. There shall be no on-site radio, televisions, video, film or electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
41. *All employees are required to park on-site.*
42. *A total 47 parking spaces shall be provided on-site or on the adjoining off-site locations.*
43. *Prior to final of the building permits, a parking agreement, which guarantees the long term availability of the off-site parking facilities for the use of the subject establishment, shall be recorded with the County Recorder's Office. The agreement shall be in a form approved by the City Attorney and the Community Development Director.*
44. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
45. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility. Any upgrade in the alcoholic beverage license shall be subject to the approval of an amendment to this application and may require the approval of the Planning Commission.
46. Any event or activity staged by an outside promoter or entity, where the restaurant owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a

door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited.

47. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
48. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when served in conjunction with food ordered from the full service menu.
49. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
50. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.
51. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and retail sales during the same period. The licensee shall maintain records that reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Planning Division on demand.
52. Live entertainment and dancing shall be prohibited as a part of the regular operation, unless an amendment to this conditional use permit or other required application is first approved in accordance with the provisions of the Municipal Code.
53. The establishment shall provide licensed security personnel. A comprehensive security plan for the permitted uses shall be submitted for review and approval by the Newport Beach Police Department. The procedures included in the plan and any recommendations made by the Police Department shall be implemented and adhered to for the life of the conditional use permit.
54. *The applicant shall provide security personnel within the parking lot in the evenings between 11:00 p.m. and 15 minutes after closing, in sufficient number, to advise and assist patrons entering and leaving the area in a quiet manner, and to prevent loitering by patrons after the close of business.*
55. *The operator of the establishment shall post signs at clearly visible locations within the establishment and throughout the parking lot advising patrons to keep noise at a minimum.*
56. The operator of the establishment shall maintain a copy of the most recent City permit conditions of approval on the premises and shall post a notice that these are available for review on the premises. The posted notice shall be signed by the permittee.

57. *To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Malarky's Irish Pub including, but not limited to, Conditional Use Permit No. UP2010-039 and Comprehensive Sign Program No. CS2011-002 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

Fire Department Conditions

58. Automatic fire sprinklers shall be required if the occupant load is 100 persons or more.
59. Portable propane heaters are not permitted. Any proposed heaters for the new outdoor dining patio shall be either electric or natural gas installed in accordance with the California Electrical or Plumbing Code.

Building Department Conditions

60. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
61. All exits shall remain free of obstructions and available for ingress and egress at all times.
62. Strict adherence to maximum occupancy limits is required.
63. Grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems in accordance with the provisions of the Plumbing Code, unless otherwise approved by the Building Division.

Public Works Conditions

64. *The proposed signs, awning, and entry canopy that project into the public right-of-way shall comply with City Council Policy L-6.*

65. *Prior to final of the building permits, the applicant shall be reconstruct the curb, gutter and sidewalk from the southerly building corner to the northerly property line along Newport Boulevard.*
66. *Prior to final of the building permits, the applicant shall reconstruct the existing driveway approach at the northerly portion of the project site along Newport Boulevard.*
67. *Implementation of valet parking shall not be permitted unless a valet operation and management plan is first submitted for review and approved by the Deputy Community Development Director and the City Traffic Engineer.*

EXHIBIT "B"

Sign Program Matrix



Comprehensive Sign Program Matrix for 3011 Newport Blvd

Planning Department
3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3200 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

Frontage Designations:

- A. Newport Blvd
- B. 30th Street
- C. Northwest (Facing Shopping Center)

(LF = Linear Feet / SF = Square Feet)

| Type of Sign | Primary Frontage Newport Blvd | Secondary Frontage 30 th Street & Northwest (Facing Shopping Center) |
|----------------------------|--|--|
| Wall Sign (1) | Maximum number of signs: 3 Maximum sign area: 75 SF Maximum vertical dimension: 18 inches Minimum distance from building corner: 7 feet | Maximum number of signs: 1 Maximum sign area: 37.5 SF Maximum vertical dimension: 24 inches Minimum distance from building corner: 7 feet |
| Projecting Sign (1) (2) | Maximum number of signs: 1 Maximum sign area: 10 SF Maximum Projection: 3 feet | N/A |
| Awning Sign (1) (2) (3) | Maximum number of signs: 4 Maximum sign area: 8 SF Maximum vertical dimension: 6 inches | Maximum number of signs: 2 Maximum sign area: 4 SF Maximum vertical dimension: 6 inches |
| Total Sign Area | 75 SF for any combination of signs | 37.5 SF for any combination of signs |

NOTE: Sign area is the area measured by two perpendicular sets of parallel lines that surround the proposed logo and sign copy. All signs shall substantially conform to the approved set of plans stamped and dated March 3, 2011. Pursuant to Section 20.42.120.F of the Zoning Code, the Planning Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

- (1) Subject to the regulations of 20.42.080 for sign standards by sign type, unless otherwise indicated by table matrix and or in the finding and conditions in the associated resolution of approval.
- (2) A minimum of 8 feet of clearance between the lowest part of a sign/awning and the grade below shall be provided.
- (3) Signage limited to valance only. A maximum of 50 percent of the valance area shall be used for signage.

Attachment No. PC 2

Project Plans

RECEIVED BY
 PLANNING DEPARTMENT
 FEB 17 2011
 CITY OF NEWPORT BEACH

**MALARKY'S
 IRISH PUB
 REMODEL**

301 NEWPORT BLVD
 NEWPORT BEACH, CA 92660
 (949) 676-2940

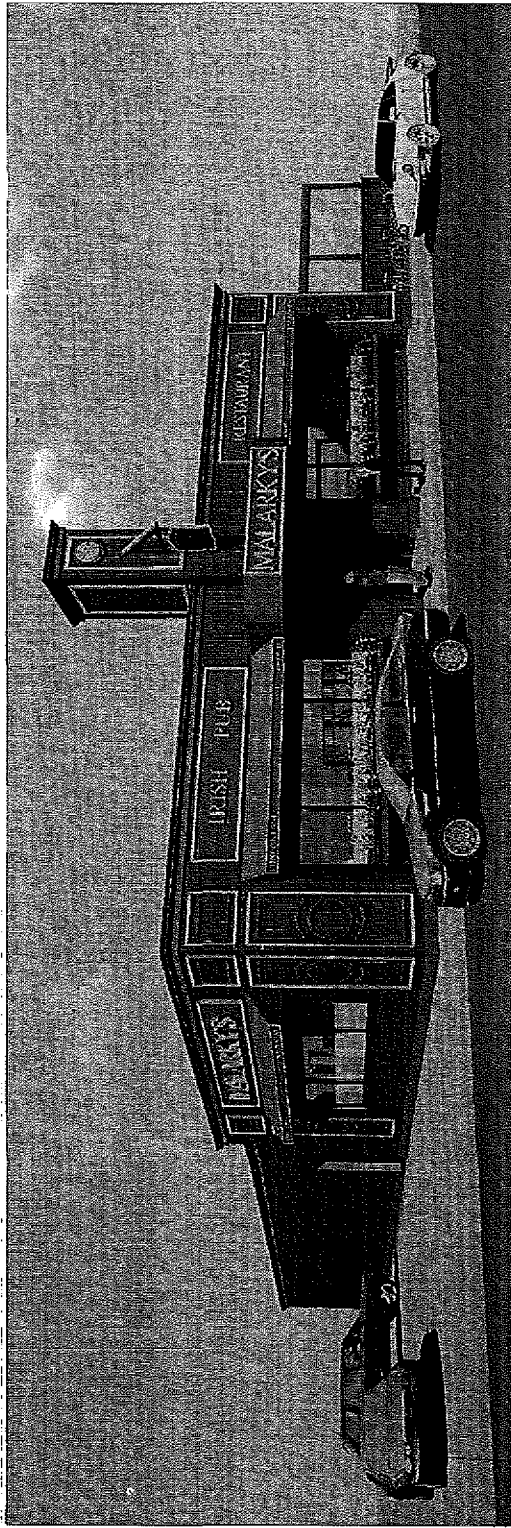
REVISIONS

PROJECT NO.
 2010-10
 DRAWN BY
 CHECKED BY
 DATE
 ISSUE DATE
 1/27/11

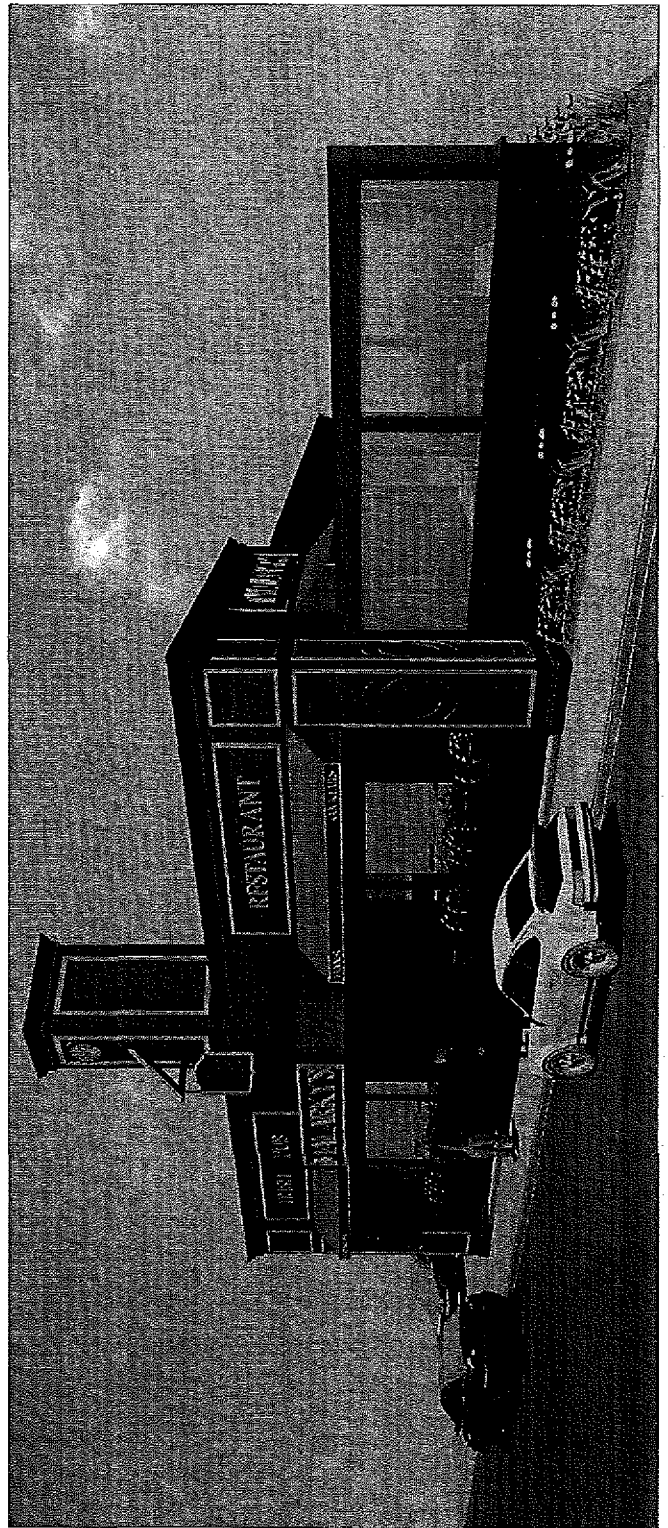
PROJECT NO.
 2010-10
 DRAWN BY
 CHECKED BY
 DATE
 ISSUE DATE
 1/27/11

SHEET TITLE
 OPTION A
 PERSPECTIVE

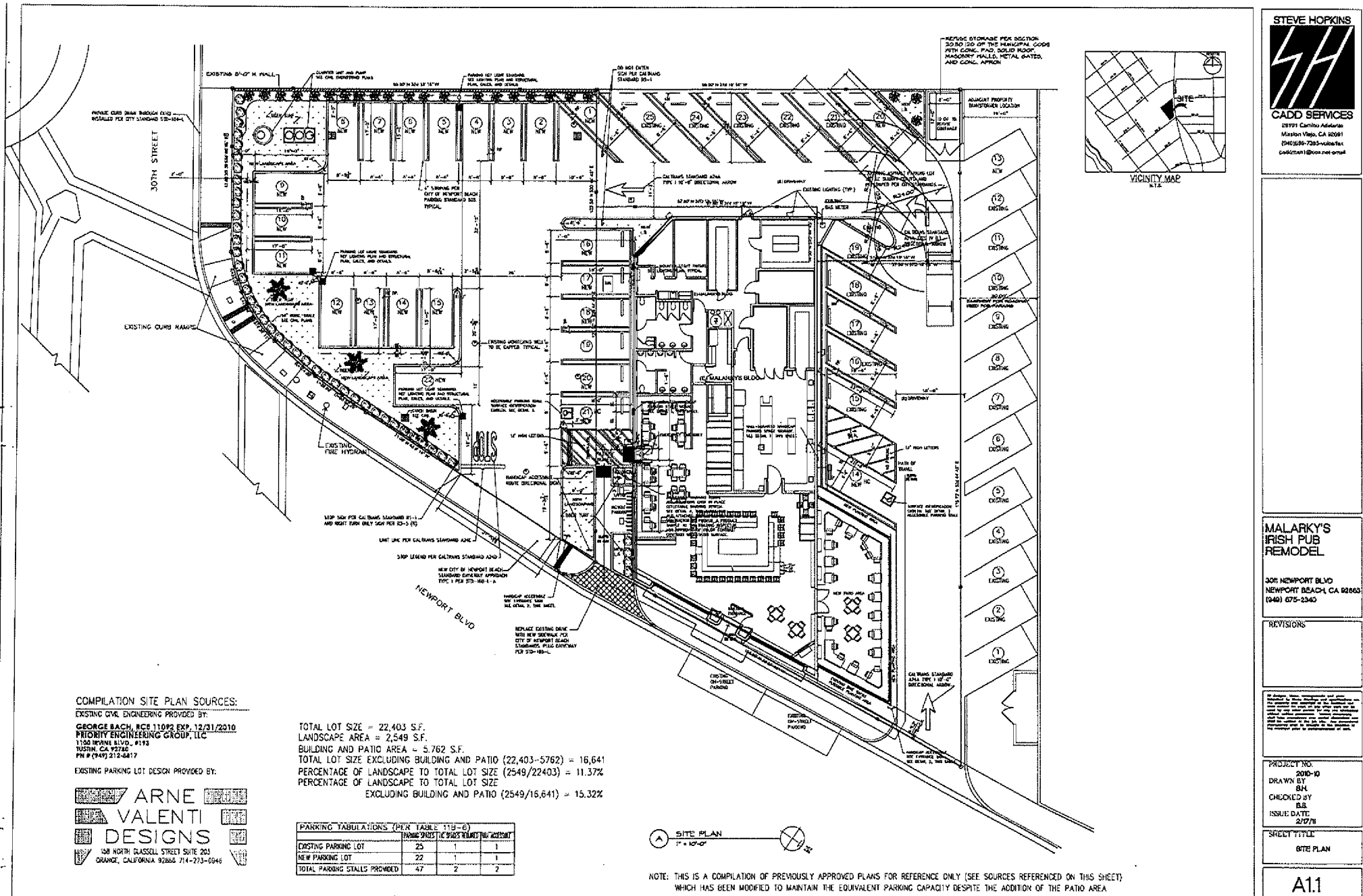
A0.1A

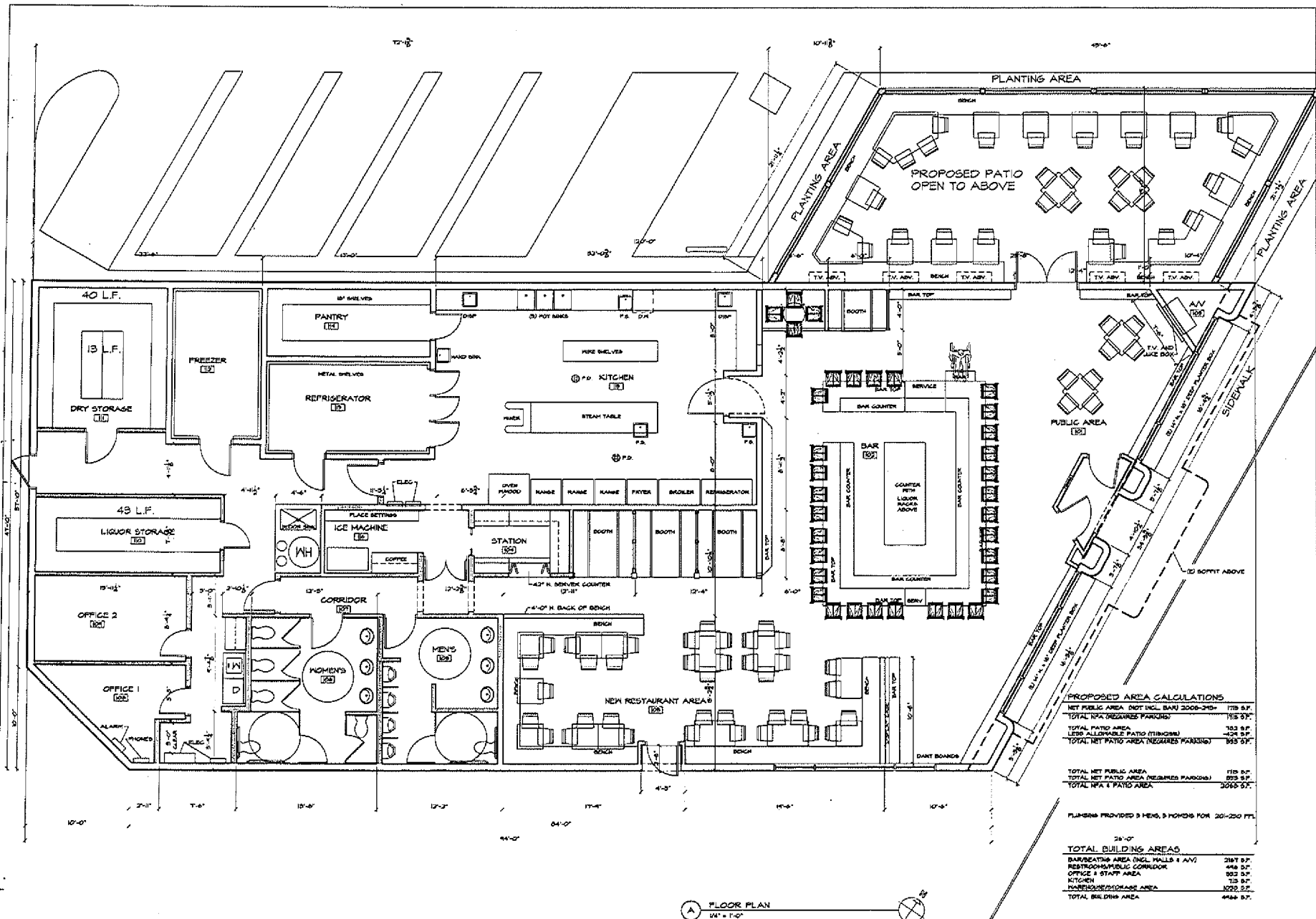


(A) SOUTHEAST PERSPECTIVE - OPTION A
 1/4" = 1'-0"



(B) NORTHEAST ELEVATION - OPTION A
 1/4" = 1'-0"





STEVE HOPKINS
CADD SERVICES
28191 Camino Arroyo
Mission Viejo, CA 92691
(949) 556-7385 voice/fax
cs@hopkinscadd.com

MALARKY'S IRISH PUB REMODEL

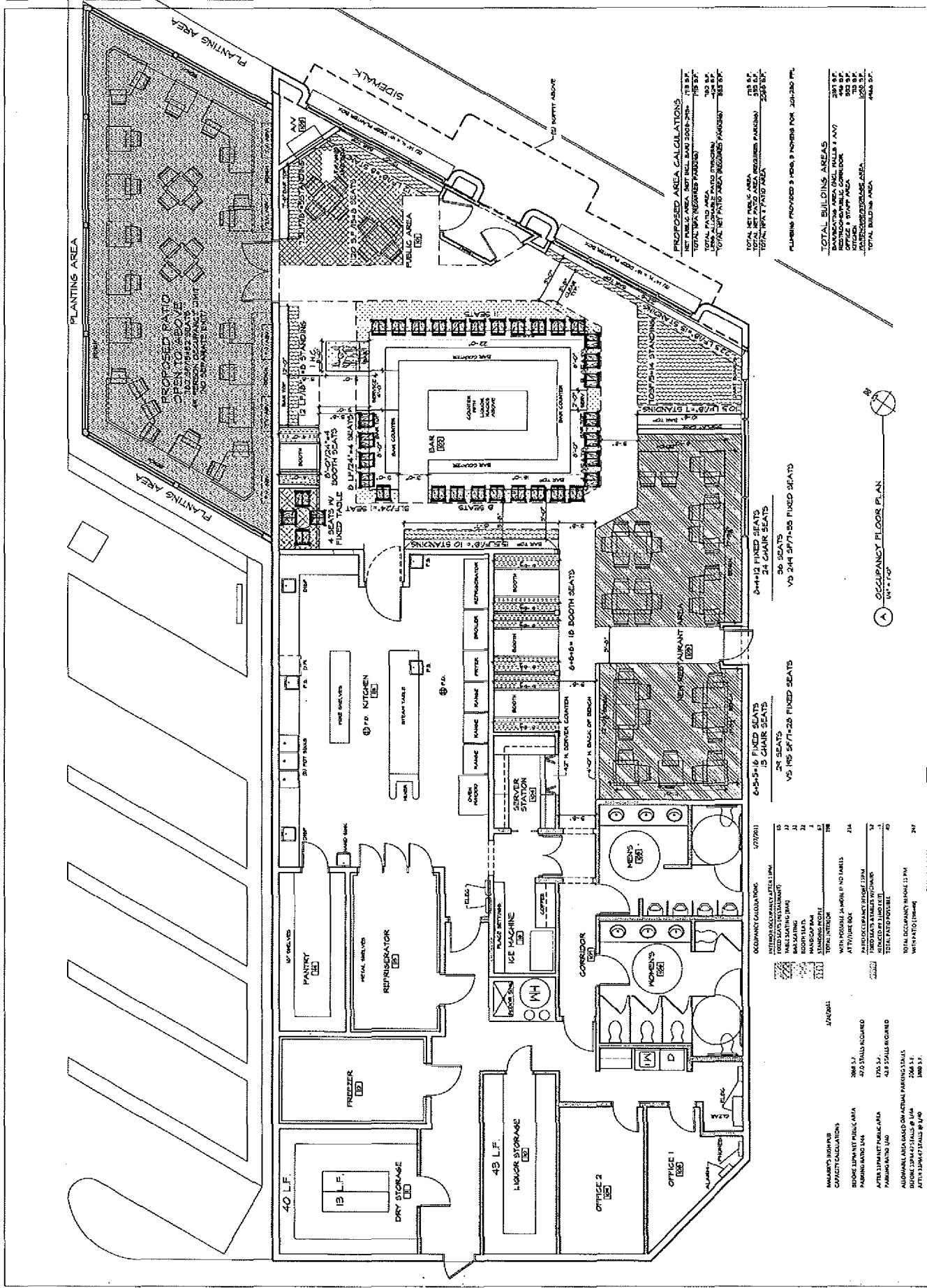
308 NEWPORT BLVD
NEWPORT BEACH, CA 92663
(949) 675-2340

REVISIONS

PROJECT NO.
2010-10
DRAWN BY
S.H.
CHECKED BY
B.B.
ISSUE DATE
2/17/11

SHEET TITLE
FLOOR PLAN

A2.1a

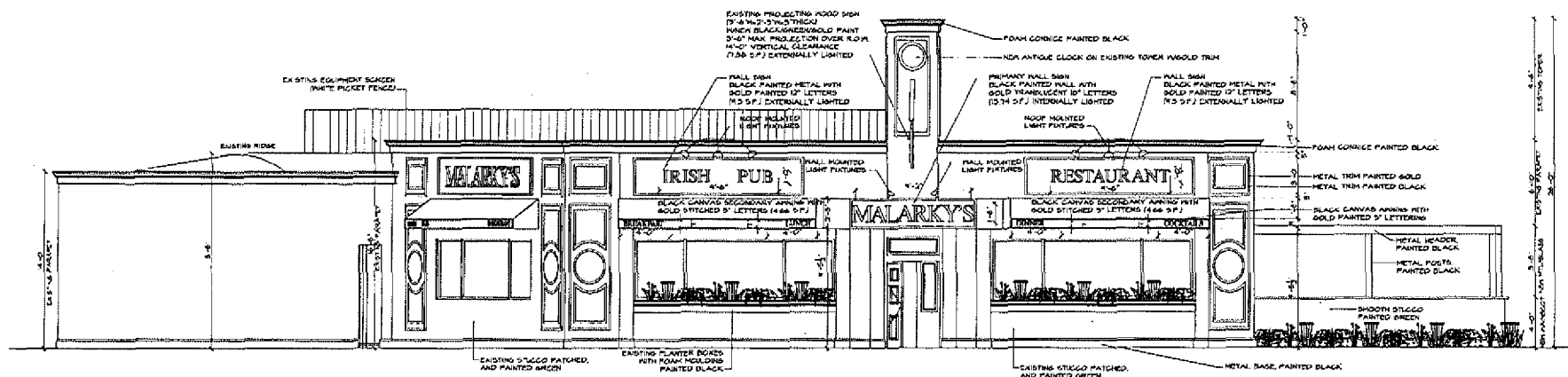


STEVE HOPKINS

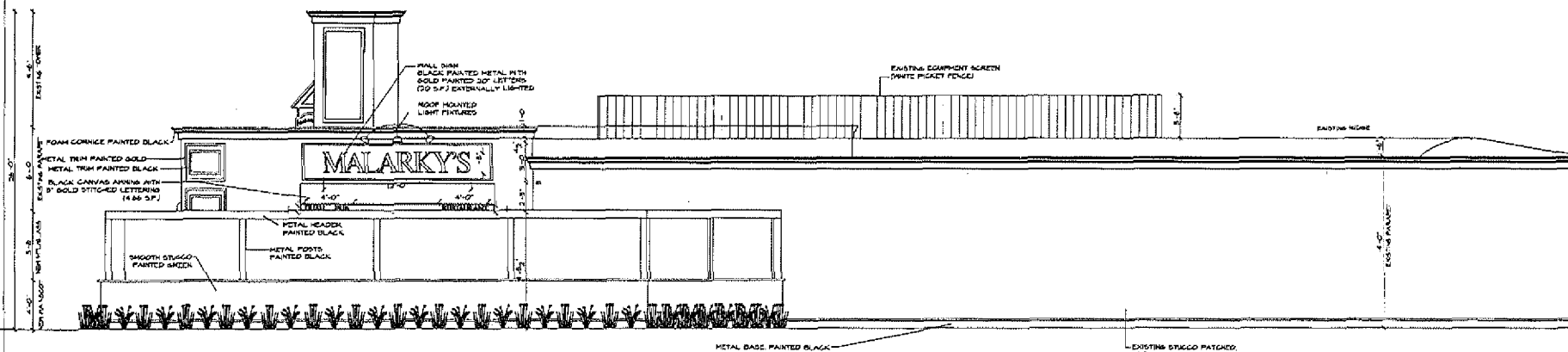


CADD SERVICES

24191 CARMON ADELANTO
MISSION VILLO, CA 92391
(818) 574-7245 - Fax: (818) 574-7246
shhopkins@comcast.net



A EAST ELEVATION
1/4" = 1'-0"



B NORTH ELEVATION
1/4" = 1'-0"

MALARKY'S
IRISH PUB
REMODEL

24191 CARMON ADELANTO
MISSION VILLO, CA 92391
(818) 574-7245

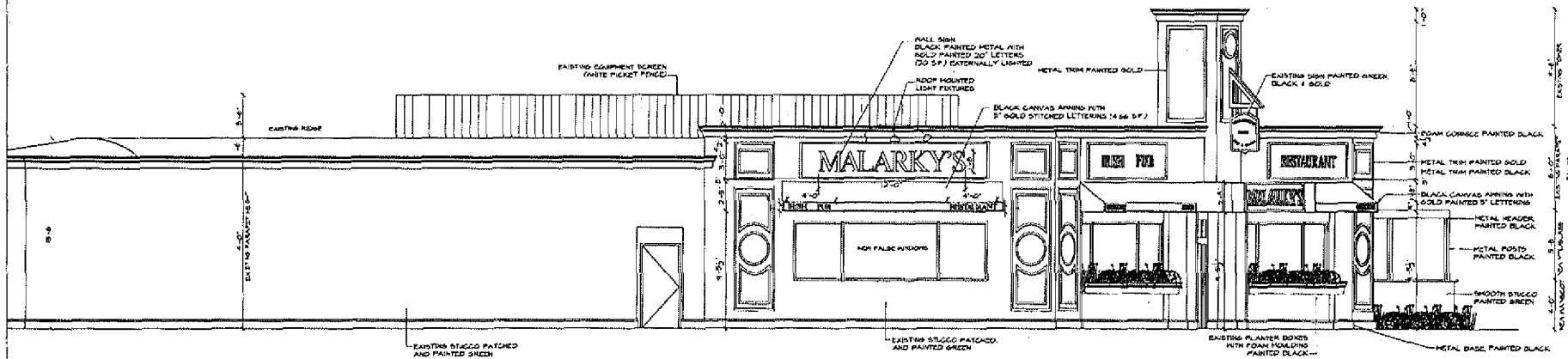
REVISIONS

1. REVISED PER COMMENTS FROM CLIENT
2. REVISED PER COMMENTS FROM CLIENT
3. REVISED PER COMMENTS FROM CLIENT
4. REVISED PER COMMENTS FROM CLIENT
5. REVISED PER COMMENTS FROM CLIENT
6. REVISED PER COMMENTS FROM CLIENT
7. REVISED PER COMMENTS FROM CLIENT
8. REVISED PER COMMENTS FROM CLIENT
9. REVISED PER COMMENTS FROM CLIENT
10. REVISED PER COMMENTS FROM CLIENT

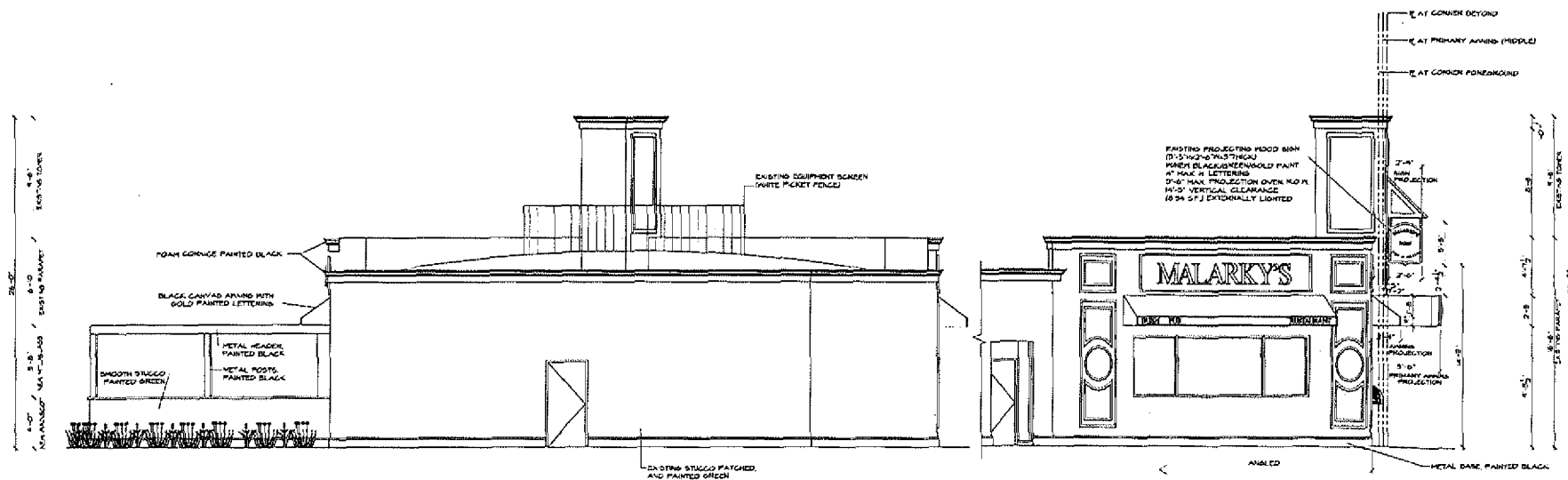
PROJECT NO.
2010-10
DRAWN BY
BHL
CHECKED BY
BHL
ISSUE DATE
2/7/11

SHEET TITLE
EAST + NORTH
ELEVATIONS

A3.1



C SOUTH ELEVATION
1/4" = 1'-0"



D WEST ELEVATION
1/4" = 1'-0"

E PARTIAL ELEVATION (PERPENDICULAR TO STOREFRONT)
1/4" = 1'-0"

STEVE HOPKINS



CADD SERVICES

30191 CAMINO ADALANTE
MISSION VIEJO, CA 92591
(949) 839-7343 • Phone/Fax
shhopkins1@gmail.com

MALARKY'S IRISH PUB REMODEL

301 NEWPORT BLVD
NEWPORT BEACH, CA 92663
(949) 679-2340

REVISIONS

1. 2/17/10: Initial Design
2. 2/17/10: Initial Design
3. 2/17/10: Initial Design
4. 2/17/10: Initial Design
5. 2/17/10: Initial Design
6. 2/17/10: Initial Design
7. 2/17/10: Initial Design
8. 2/17/10: Initial Design
9. 2/17/10: Initial Design
10. 2/17/10: Initial Design

PROJECT NO.
2000-10
DRAWN BY
S.H.
CHECKED BY
B.B.
ISSUE DATE
2/17/10

SHEET TITLE
SOUTH + WEST
ELEVATIONS

A3.2

Attachment No. PC 3

Basic Lease Provisions

BASIC LEASE PROVISIONS

Effective Date of Lease: the 1st day of January, 2010

Landlord: Theresa C. Morrison, Trustee of the
William J. Cagney Trust dated April 17, 1987

Landlord's Notice Address: William J. Cagney Trust
Theresa Cagney Morrison, Trustee
c/o CE Property Management Services
1953 San Elijo Avenue, Suite 202
Cardiff, California 92007
ATTN: Judy Lehnhoff, Director of Property Management
AND
P. O. Box 549
Cardiff, California 92007

Additional Notice Address: William J. Cagney Trust
Attn: Theresa C. Morrison, Trustee
1953 San Elijo Avenue, Suite 202
Cardiff, California 92007

Address for
Payment of rent: Same as above for Landlord's notice

Tenant: MARIO MAROVIC AND ASHLEA ESPARZA MAROVIC,
Husband and Wife

Tenant's Notice Address:

Premises Street Address : 3011 Newport Boulevard
Newport Beach, California 92663-3809

Premises Floor Area: There are three property parcels containing a total of 22,680 square feet of land area on which exists a building containing approximately 5,134 square feet. The parcel of property known as 3001 Newport Boulevard (Assessors Parcel #047-060-10) contains approximately 8,500 square feet of land area, and the parcel(s) of property known as 3009 and 3011 Newport Boulevard (Assessors Parcel #'s: 047-060-01 and 047-060-06) collectively contain approximately 14,180 square feet

WJM
AM

of land area (within which there exists a building of approximately 5,134 square feet).

Base Term: Ten (10) years

Option(s): One (1) option of five (5) years
with Minimum Annual Rent as set forth in Exhibit C, Options

Date of Delivery: Subject first to the provisions of Section 27.e) contained herein, Landlord will deliver the Premises to Tenant within 3 days following the successful termination of the existing "Malarky's" month to month lease and their vacation of the premises by 15 March 2010. The Premises will be delivered to Tenant in their "AS IS" condition as of the date of delivery.

First Twelve Month's
Minimum Annual Rent:

Security Deposit:

First Month's Prepaid Rent:

Percentage Rent Rate:

Tenant's Trade Name:

Permitted Use:

Broker: Cyndi Ybarra (for Landlord)

EXHIBITS:

- "A" Site Plan
- "B" Work Letter
- "C" Options
- "C-1" Acknowledgment of Commencement of Term
- "D" Rent Schedule
- "G" Tenant's Estoppel Certificate

Wm JRM
AN

Attachment No. PC 4

Security and Crowd Management Plan

SECURITY PERSONNEL

All security personnel will be directly employed by the Malarky's Irish Pub and as such will be subject to all Malarky's Irish Pub procedures and policies. Including but not limited to having a current guard card for the duration of employment, fulfilling Malarky's training course and being L.E.A.D certified. All records will be kept on file and accessible to the manager on duty.

Malarky's security personnel responsibilities will include but not limited to:

- Verifying that guests are of appropriate age and posses current up to date California acceptable ID's
- Greeting Customers
- Enforcing dress code:
 - No tank tops
 - No bandanas
 - No club affiliation(gang attire)
 - No sports jerseys
 - No UFC affiliated attire (tapout)
 - California casual attire
- Maintaining a clear and safe environment both inside and outside the business
- Observing for over intoxicated guest
 - Not allowing any such person entrance to the business
- Being proactive by watching for aggressive or confrontational guests
- Intervening before a verbal altercation before it becomes a problem
- Helping to keep order and clear passage for both guests and personnel alike
- Keeping an accurate count of guests and employed personnel in the building
- Helping to ensure that no minors are being served alcohol

Two security members will be inside with pre-designated posts to help prevent congestion. They will also be responsible for helping to maintain a safe environment by observing for over intoxicated guests and potentially violent guests or situations

We will have a security staff member at each door from 9PM till close.

On any given night we will have one security person for every 50 persons in the building. In addition to having security staff on duty we will also have a 16 camera video surveillance system that cover most parts of the interior and some of the exterior including queuing and designated smoking areas. In a case where our surveillance can be helpful we will be more than willing to turn over any video footage we may have to Newport Police department.

Sunday, Monday, Wednesday

1-2 Security Staff members at 9PM, an additional 1 to 2 at 10PM amount may vary depending on the number of guests

Tuesday, Thursday, Friday, and Saturday

2 Security staff members at 9PM, an additional 2 to 3 at 10PM

We will increase security staff to accommodate and account for any national holidays, long weekends, etc. As we understand that those particular days increase business.

SECURITY PERSONNEL UNIFORMS

All security personnel will be required to wear a Malarky's security uniform. The Malarky's Irish Pub will provide the following items to complete the uniforms.

An identifying tag with **SECURITY** etched into it to help identify them as security personnel

Flashlights, digital counters, black lights for the doors, current ID books, 30x Magnifying loop, Kenwood 2 way radios with Pryme noise reduction acoustic ear pieces

In addition, Security personnel will be required to carry current guard cards and ID on them at all times.

CONTROL AND CLEARANCE OF PARKING LOT/SIDEWORLD/QUEUING AREA

When the first two security personnel have clocked in one will be instructed to do a physical count to establish our current head count. Once the first security member has completed a count they are to set both counters to our current head count. From this point anyone entering or exiting will be accounted for by communicating via radio.

Once we have reached capacity and there is need for a queue, all guests will be asked from the front entrance only. The line will form on the front side of the property and run in line with our property as to not encroach on the public sidewalk. Anyone who wishes to smoke will be asked to smoke on the South side of building at which time the South side door will be for exit only and smoking. When a guest steps outside to smoke they receive a stamp and will still be included into capacity count. If a person leaves from the South side of the building, the security member stationed at that door will radio to the person stationed on the Front door the amount of people exiting. The security staff member on the Front door will do the same and also radio the amount of people entering to help insure an accurate count at both doors. Security personnel will be in constant communication with each other and managers throughout the night.

Malarky's Irish Pub Security personnel will be required to perform periodic patrols of the immediate parking lot to ensure no loitering littering, graffiti or illegal consumption of alcohol or narcotics. If any persons are observed partaking in any illegal activities they will be asked to cease and desist and the manager on duty will be notified and in turn will notify the Newport police department.

Upon closing, 3 of the Malarky's security personnel will patrol the parking lot in our immediate area to ensure safe departure of Malarky's guest and pedestrians. Once the parking lot is clear a member of the Malarky's security staff will be required to sweep the immediate area of the business to make it is free of trash cigarette butts and debris that any have accumulated due to business operations.

INCIDENTS INVOLVING FORCE

Malarky's Irish Pub has a strict no hands on policy. We have instructed all personnel to avoid aggressive or forceful confrontation with a potentially aggressive guest. We encourage a verbal and diplomatic resolution to a problem guest. We only condone reasonable force to subdue an aggressive guest if they're a direct threat to themselves, another guest or other member of Malarky's personnel.

If force is required in any way security personnel are required to follow the strict procedures that have been set forth and signed by each security staff member established by the Malarky's Irish Pub. These procedures include notifying Newport Police Department as soon as it is safe or situation allows

INTOXICATED PERSONS

Once an over intoxicated guest has been identified, the security member will notify the manager. At that point all serving staff will be notified that the person in question will no longer be served alcohol. If the person in question is with a group of people the manager and a member of the security staff will approach one of his/her sober friends to possible assist in getting the person in question an alternative form of transportation home. As according to California law it is illegal to serve or have a person who is obviously intoxicated in your establishment.

If the person in question is alone a manager accompanied by a security staff member will approach the guest and inform them that we will no longer by law be allowed to serve them alcohol. At which point the manager will offer an alternative mean of transportation i.e. Taxi or a friend to pick them up. If the person refuses and insists on driving the security staff member will then keep the person in a question engaged conversation while the Malarky's manager on duty will call Newport Police Department and notify them of the situation providing them with any pertinent information.

It is Malarky's policy to assist an intoxicated person in finding an alternate means of transportation home other than driving.

VERIFYING AGE/CHECKING IDENTIFICATION

When greeting customers, Security personnel will be responsible for making sure that the guest entering is of age, has a current California accepted bona-feed ID. The ID should be current and offer a physical description, have a photo and show date of birth to be 21yrs of age or older. If the security member greeting has any questions about the ID they will be instructed to consult our most current California acceptable ID book provided by one of our local distributors. Malarky's enforces the F.L.A.G. procedure.

Feel – Feel the ID for any inconsistencies. Cracking, Peeling, Texture

Look – Look at the ID to make sure all information is correct and current and make sure the person on the ID is the person presenting it.

Ask – Ask questions. For example. Are you 21 or older? What is your birthday? Where do you live?

Give Back – Once they have determined that the person possessing the ID is 21 years of age or older, they will give the ID back to the person and allow them the enter

If determined that the ID presented is not real or is another person than the one presenting it. The greeting security member will notify the manager on duty, confiscate the ID and provide the person with a receipt and instructions that it will be turned over to the Newport Police Department within 24 hours and can be claimed there.

We also provide our security staff that greets guests with a black light to help identify any black light sensitive printings and a 30x magnifying loop for Micro printing.

CONCLUSION

We at the Malarky's Irish Pub understand the importance of being proactive when it comes to security

situations. It is important to be firm and impartial. We also stress to our security staff to stick to the facts when dealing with a situation. Opinions and personal feeling may not and cannot be a part of decision making when it comes to the safety and control of the guests. We also stress the importance of communication between server's security and managers. That is why whenever we have security staffs on duty all security and managers will be wearing a radio to help aid in communication and professionalism. We have a managers involved in any security related issue whenever possible. All security personnel are instructed never to handle a situation by themselves. We take a great pride in having a knowledgeable friendly and professional security staff.

We at the Malarky's Irish Pub also understand the importance of police involvement in altercations or other specific security issues. It is important to be willing to work with the Newport Police Department to help us insure the safety of our guest and pedestrian walking by our establishment. We encourage notes comments and support of the Newport Police Department.

Attachment No. PC 5

Police Department Memorandum

**City of Newport Beach
Police Department**

M e m o r a n d u m

December 9, 2010

TO: Jaime Murillo, Associate Planner

FROM: Detective Bryan Moore

SUBJECT: Malarky's Irish Pub, 3011 Newport Boulevard, Use Permit No. 2010-039, (PA2010-172).

At your request, the police department has reviewed the project application for *Malarky's Irish Pub*, located at 3011 Newport Boulevard, Newport Beach. The applicant requests to expand the existing restaurant and bar. The expansion includes remodeling the interior of the facility to create a new seating area and to provide ADA compliant restrooms. The interior net public area (NPA) is proposed to increase by 649 square feet. A new 796 square foot outdoor patio is also proposed to be constructed. Overall, the facility will have a total NPA of 2,735 square feet. In addition, the applicant is proposing to renovate the exterior of the facility including the installation of new signs, awnings and an entry canopy. Proposed hours of operation are 7:30 a.m. to 2:00 a.m.

The applicant will be proposing valet parking on the weekends to accommodate the peak parking demand of 57 spaces. It is also the applicant's intent to utilize the valet to mitigate noise and prevent loitering in the adjacent parking lot. A valet parking management plan is currently under preparation.

The applicant currently holds a Type 47 (On Sale General – Eating Place) license, in good standing, with the Department of Alcoholic Beverage Control.

I have included a report by Crime Analyst Paul Salenko that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that this new location is within an area where the number of crimes is at least 75% higher than the average of all reporting districts in the City. This location is also within an RD that is over the Orange County per capita of ABC licenses.

Applicant History

The applicant, Mario Marovic, is a resident of Corona del Mar and has been the principle owner/operator of Malarky's Irish Pub since April of 2010.

Malarky's
UP No. 2010-039

The Marovic family has been in the restaurant business since 1973 with Mario first acquiring ownership in 1998. Mario Marovic also owns several other residential and commercial properties in Newport Beach, including the District Lounge and the Landmark Steakhouse.

Marovic intends on maintaining Malarky's as a traditional Irish pub; however, he proposes several renovations that will aesthetically improve the exterior and interior of the restaurant. Marovic envisions that the expanded interior / patio will be utilized for dining where breakfast, lunch and dinner will be served 7 days a week. Additionally, Marovic plans on providing an upscale menu of traditional Irish cuisine that will enhance the overall quality of the restaurant.

Marovic also acknowledges that after 10:00 p.m. the establishment will primarily be utilized as a bar; however, he does wish to make a late night menu available until close.

Police Activities and Calls for Service Data (Malarky's Irish Pub)

The below information represents the time period between December 1, 2009 through December 1, 2010:

| TYPE | CALLS/INCIDENTS | NOTES |
|----------------------------|-----------------|---------------------------------------|
| Fights/Disturbance Calls | 23 | Batteries, loud music, keep the peace |
| B&P Violations | 1 | Minor in Possession of Alcohol |
| Alcohol Related Arrests | 2 | (1) DUI and (2) public intoxication |
| Officer Initiated Activity | 29 | Bar checks, subject/vehicle stops |
| Misc | 15 | Alarm, theft reports, MC violations |

*The above table is a cursory look at calls for service. The individual details of each event have not been investigated.

Recommendations

The proposed location for Malarky's Irish Pub is located in RD (reporting district) 15 which is the most concentrated area for retail alcohol establishments in Newport Beach (1 ABC license for every 38 residents). Additionally, this RD had a total of 946 reported crimes as compared to a City wide reporting district average of 162 reported crimes (483.95% above the City wide RD average). These statistics would tend to indicate that there is a strong correlation between the over-concentration of ABC establishments and police related activity.

Additionally, Malarky's Irish Pub has traditionally operated primarily as a bar between the hours of 10:00 p.m. and 2:00 a.m. Per the applicant's proposal, this will remain the same; however, an outdoor patio will be added and the interior square footage will increase which will raise the total occupancy of the establishment. Despite the best operator's intentions, the Police Department believes that this change will have a significant impact on noise with regard to the nearby residential areas.

We are also projecting that the applicant's proposal will result in an increase in police related activities and calls for police services. The resources required to address these events would detract from our ability to provide police services to the other areas of the community; therefore, we are recommending against the expansion of the interior of Malarky's Irish Pub.

The Police Department is not opposed to the addition of an outdoor patio; however, we would recommend that the outdoor patio close at 10:00 p.m., daily. We feel that these recommended hours would limit the effects that noise will have on the neighboring residential areas.

Should this application be approved, the Police Department recommends the following conditions:

Signs and Displays

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

Hours of Operation

The current hours of operation are from 7:30 a.m. until 2:00 a.m.

The Police Department recommends that the outdoor patio close at 10:00 p.m., daily.

Security

The applicant shall provide licensed security personnel. A comprehensive security plan for the permitted uses shall be submitted for review and approval by the Newport Beach Police Department. The procedures included in the plan and any recommendations made by the Police Department shall be implemented and adhered to for the life of the use permit.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Additional Comments

For the purposes of this application, staff may also want to consider establishing conditions that would require a special event permit. A special event permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation. For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form of contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

Other Recommended Conditions

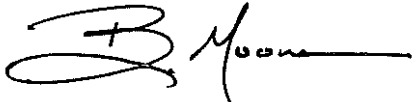
In addition, the Police Department has determined that the following conditions would be appropriate for the conditional use permit for the business:

1. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the planning commission first approves a use permit.
2. No alcoholic beverages shall be consumed on any property adjacent the licensed premises under the control of the licensee.
3. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9 p.m.
4. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
5. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the police department on demand.
6. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
7. There shall be no live entertainment allowed on the premises.
8. There shall be no dancing allowed on the premises.

Malarky's
UP No. 2010-039

9. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
10. Food service from the regular menu must be available to patrons until close.
11. Strict adherence to maximum occupancy limits is required.

If you have any questions, please contact me at (949) 644-3725.

A handwritten signature in black ink, appearing to read "B. Moore", with a stylized flourish at the end.

Detective Bryan Moore
ABC Liaison/Vice/Intelligence

A handwritten signature in black ink, appearing to read "C. Fox", with a stylized flourish at the end.

Craig Fox, Captain
Detective Division Commander

City of Newport Beach

Police Department

Memorandum

December 6, 2010

TO: Makana Nova, Assistant Planner

FROM: Paul Salenko, Crime Analyst

SUBJECT: Alcohol Related Statistics

At your request, our office has reviewed police services data for the **Malarky's Irish Pub** at **3011 Newport Blvd.** This area encompasses our reporting district (RD) number 15 as well as part of Census Tract 635. This report reflects **City of Newport Beach** crime data for calendar year 2009, which is the most current data available.

Calls for Service Information

City wide there were approximately 69,294 calls for police services during this time, of which 6,663 were in RD15. A "call for service" is, *any contact of the police department by a citizen which results in the dispatching of a unit or causes the contacted employee to take some sort of action*, such as criminal investigations, alarm responses, traffic accidents, parking problems, and animal control calls, etc.

Crime Information

There were 6,194 crimes reported to the Newport Beach Police Department during this period. Of this total, 2,884 were Part One Crimes. Part One crimes are the eight most serious crimes (*Homicide, forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-theft, Auto Theft and Arson*) as defined by the FBI in the Uniform Crime Reports. The remaining 3,350 were Part Two crimes. The Part One crime rate for the entire city during this same period was 3,297.31 per 100,000 people. The national Part One crime rate was 3,667.02* per 100,000 people.

| Crimes | RD 15 | Newport Beach | California* | National* |
|-------------------|-----------|---------------|-------------|------------|
| Part 1 | 343 | 2,884 | 1,184,073 | 10,639,369 |
| Part 2 | 242 | 3,350 | N/A | N/A |
| Part 1 Crime Rate | 11,506.43 | 3,297.31 | 3,203.52 | 3,465.52 |

The number of active ABC licenses in this RD is 79**

Per capita ratio 1 license for every 38 residents.

This reporting district had a total of 946 reported crimes as compared to a City wide reporting district average of 162 reported crimes. This reporting district is 784 crimes more or 483.95% above the City wide reporting district average. This location is within an RD that is over the Orange County per capita average of ABC licenses**.

Arrest Information

There were 80 DUI arrests and 281 Plain Drunk arrest in this area during this same period as compared to 1,270 for the entire city. This RD amounts to 28.43% of the DUI/Drunk arrests made in the entire City. According to a recent national study by the Department of Justice, more than 36% of adult offenders convicted of crimes in 1996 had been drinking at the time of their arrest.

| Arrests (DUI/Drunk) | RD 15 | Newport Beach | California* | National* |
|------------------------|-------|---------------|-------------|------------|
| | 361 | 1,270 | 324,442 | 2,094,731 |
| Total Arrests | 796 | 3,595 | 1,474,004 | 13,687,241 |

Additional Information

The Alcoholic Beverage Outlets ordinance states that the Planning Commission shall consider the crime rate in the adjacent reporting districts. The two adjacent reporting districts you requested are RD 13 and RD 16

| Crimes | RD 13 | RD 16 |
|--------------------------------------|----------------|-----------------|
| Part 1 | 112 | 167 |
| Part 2 | 79 | 107 |
| Crime Rate | 5,812.62 | 6,003.49 |
| Arrests (DUI/Drunk) | 39 | 110 |
| Total Arrests | 161 | 323 |
| Calls For Service | 2,554 | 3,261 |
| Number of active ABC licenses | 6** | 6** |
| Per capita ratio 1 license for every | 321* residents | 464* residents. |

Note: It is important to remember that when dealing with small numbers any change greatly affects any percentage changes.

The population figure used for the Crime Rate was 86,252.

*These numbers are from the 2009 Uniform Crime Reports, which is the most recent edition.

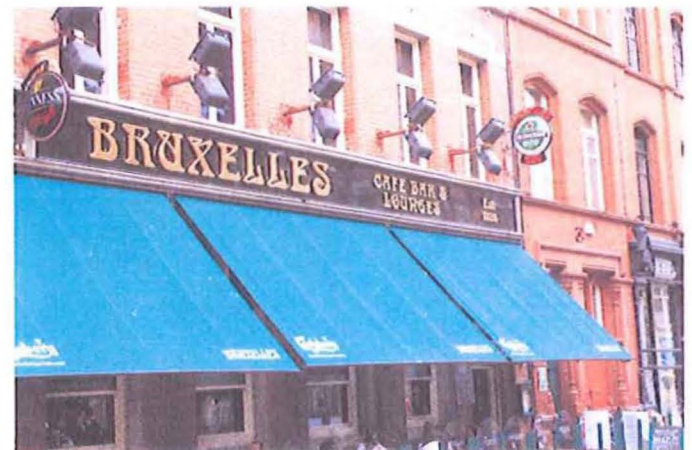
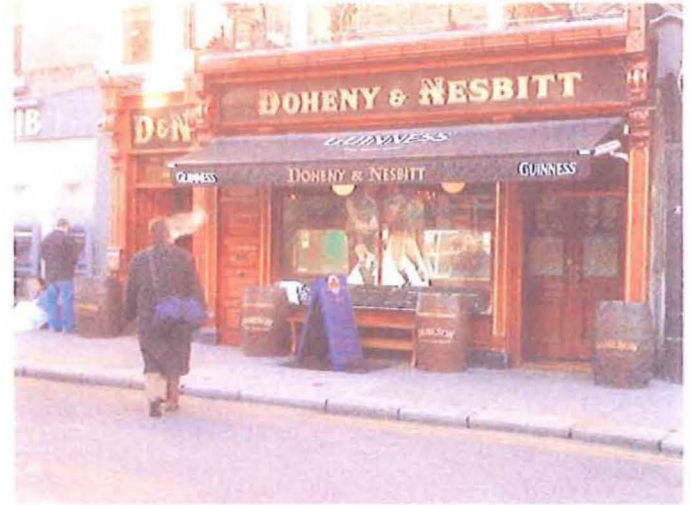
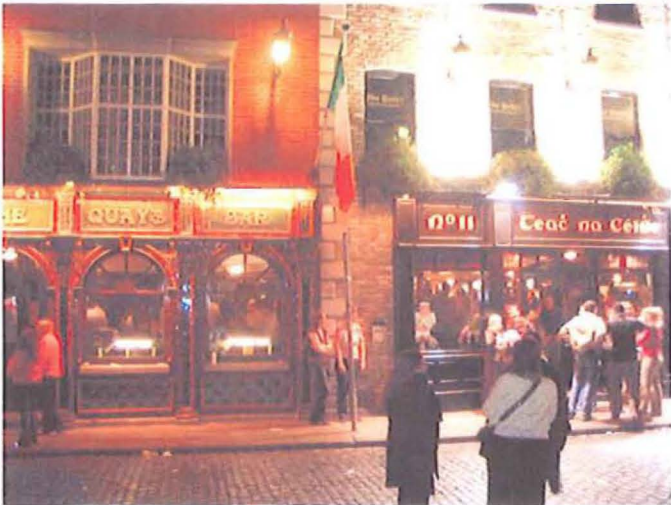
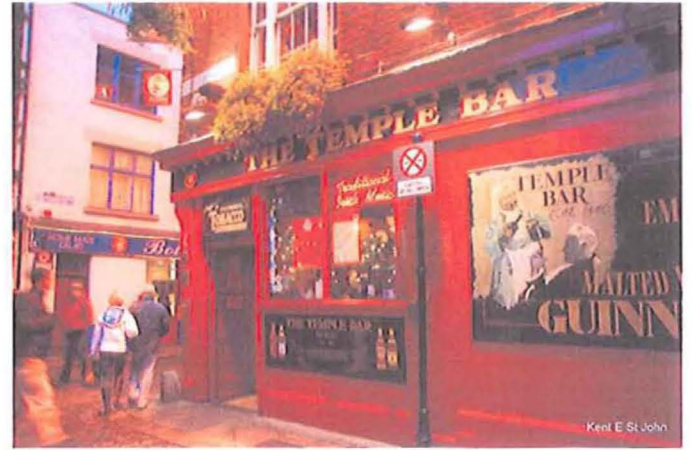
The **number of active ABC licenses is the total of all types of licenses known to the police department as of the date of this document. As of June 30, 2009 the Orange County average of active, retail ABC licenses was 1 license for every 542 residents. (5,589 licenses and a population of 3,026,786)

If you are in need of any further assistance, please contact me at (949) 644-3791.

Paul Salenko
Crime Analysis Unit

Attachment No. PC 6

Design Examples



Attachment No. PC 7

Correspondence in Support



NEWPORT BEACH
CHAMBER OF COMMERCE

Building on a Century of Service

February 22, 2011

Mr. Robert Hawkins, Chairman
Newport Beach Planning Commission
3300 Newport Blvd.
Newport Beach, CA 92663

RE: Malarky's Irish Pub

Dear Mr. Hawkins:

It is with great pleasure that the Newport Beach Chamber of Commerce writes a letter of support for the proposed remodel of Malarky's Irish Pub located at 3011 Newport Blvd., Newport Beach, CA 92663. The Chamber has always supported investment in our community and this remodel of a well established Restaurant is the right project at the right time.

The owner, Mr. Mario Marovic has a well established record of management in our community as owner of the Landmark Steak House in Corona del Mar since 2004 and the District Bar on the peninsula since 2006. Mr. Marovic has proven to be a responsible restaurant owner with no record of ABC violations or complaints from any of his neighbors.

Malarky's Irish Pub has been a fixture in our community for many years. The proposal adds a quaint outdoor patio area for our residents and visitors to enjoy. The location of the new patio is shielded by surrounding buildings so as to not impede on the quiet enjoyment of the neighbors. With the investment of nearly half million dollars adding a mere 500 square feet of public area including a total rehabilitation of both men's and women's bathrooms along with additional dining areas, this project will be a welcome enhancement to the area for years to come adding additional sales tax component to the City.

The project is also supported by the development of additional parking in the adjacent lot to the south and a reconfiguration and easement agreement from the adjacent property owner to the north making this project adequately parked.

For these reasons the Newport Beach Chamber of Commerce enthusiastically supports this proposed investment in our community and asks the Newport Beach Planning Commission to do the same..

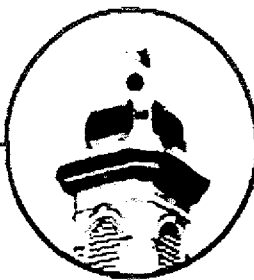
Sincerely

A handwritten signature in black ink, appearing to read 'Richard R. Luehrs', with a long horizontal flourish extending to the right.

Richard R. Luehrs
President

Cc: Members of the Newport Beach Planning Commission

NEWPORT



ELEMENTARY

SCHOOL FOUNDATION

Malarky's Irish Pub
3011 Newport Blvd
Newport Beach, CA 92663

Dear Brent & Mario,

On behalf of Newport Elementary School Foundation, I would like to personally thank you for your generous fundraiser night at Malarky's. Everyone had such a great time! We look forward to doing another event.

Your contribution is essential to the delivery of important programs and resources that enhance our children's educational experience. These are learning opportunities that would not otherwise exist due to state budget cut backs.

We are grateful for your generosity and hope you will take great pride in the important difference that your support makes.

Thank you,

A handwritten signature in cursive script that reads 'Dena Baron'.

Dena Baron

*Please tell your staff a big "Thank you" from Newport EL!!!

Newport Elementary School Foundation Board of Directors

Eric Aust, Trish Bashaw, Dena Baron, Sandi Bulgin, Mary Cappellini, Melissa Chong, John Christensen, Stacy Christensen, Kristin Douglas, Darcy Gassel, Heather Hansberger, Julee Johnson, Laura Keane, Wendy Maddocks, Max Morris, Monica Morton, Aimee Nourse, Alisa Proctor, Michelle Rappoport, Tori Rimlinger, Helen Rotherham, Kathy Sinacori, Shelly Walshe
Elizabeth Wiley, Matt Wiley

Thank you again for your generous support!

Federal Tax ID #33-0756406

Murillo, Jaime

From: Mario Marovic [mario@loungegroup.com]
Sent: Monday, January 03, 2011 4:04 PM
To: Murillo, Jaime
Subject: Letter of Recommendation

Dear Newport Beach Planning Department:

My name is Greg Mayes. I retired last December as a Police Captain from the Fullerton Police Department after almost 30 years of service. During my last few years I was responsible for coordinating police/community/business interaction as it related specifically to Downtown Fullerton. Our Downtown had grown rapidly and many issues arose that challenged the City's ability to balance public safety and perception, with the prosperity of our diverse late night entertainment venues.

My practice was always one of seeking the cooperation and assistance of our Downtown business community in the development of comprehensive strategies to minimize adverse impacts to public safety while fostering a prosperous late night business environment. This process is difficult and requires supportive and participatory business owner/operators. The success of any police/community effort relies upon the character and commitment of its City, community and business leaders; Mario Marovic is such a leader.

In 2008 the Fullerton Downtown had several problem establishments including the business known as Rock-n-Taco. This location was one of the focal points for disorder in the Downtown. In late 2008 Mr. Marovic began negotiations to purchase the business. I had not met Mario prior to becoming aware of his intentions to buy the Rock-n-Taco. Mario and I spoke on several occasions during his negotiations. I placed considerable demands upon him during my discussions and advised him he would be, "under the microscope." He said he understood the concept of consequences. Mario promised a well-managed, well-maintained business with a menu suitable for upscale dining. He advised me he would maintain security during late night hours and that he hoped to become the role-model for restaurant/lounges in the Downtown. He promised to communicate openly and honestly with other community, business and city leaders.

The Matador opened its doors in early 2009 and has been a cornerstone for stability in the Downtown ever since. Mario has lived up to his promises and exceeded expectations both personally and professionally in the Downtown business community. Mario has spearheaded Downtown business efforts in the form of restaurateur collaborations, business/community meetings and city/business efforts. He has been a significant contributor to local charity efforts including the Fullerton Boys & Girls Clubs. He has opened The Matador to fund raising events and used the business as a gathering place for entities such as the Fullerton Chamber of Commerce. Under the oversight of Mario, The Matador has become a signature location in Fullerton's late night entertainment district. Mario has worked, and continues to work, with the Police Department to cooperatively identify issues and form resolutions. Mario is a trusted resource within the community and especially the Fullerton Downtown area.

I cannot compare apples to oranges and do not have the same intimate knowledge of Newport Beach late night venues as I do of Fullerton's Downtown. I can however attest to Mario's character and commitment as it relates to the manner in which he oversees his businesses. His management of The Matador restaurant has brought to the City of Fullerton an enjoyable daytime restaurant, tasteful dining establishment and safe late night gathering place. I hope he is afforded the opportunity to do the same in Newport Beach.

With best regards,

Greg Mayes

December 20, 2010

City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

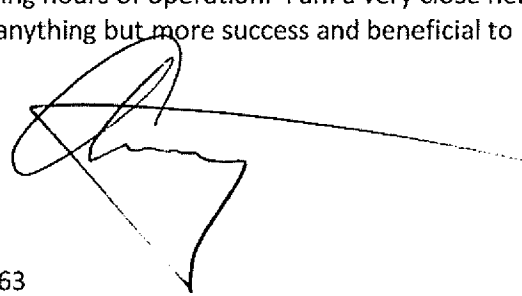
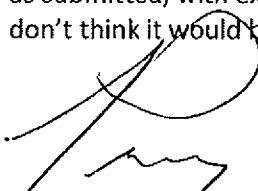
To Whom It May Concern:

I am a 35 year resident of the Balboa Peninsula and patron of the Malarky's Irish Pub. I have gotten to know Mr. Marovic very well since he acquired the business last April. Since Mr. Marovic took over operations at Malarky's, I immediately noticed many positive changes at the business. Some of the changes that took place immediately after Mr. Marovic acquired the business are:

- Implemented an employee training program;
- Improved the menu;
- Hired a full time manager;
- Purchased all new glass and dishware;
- Increased security in the evenings;
- Completed a lot of past due repairs that the previous owner neglected;

Mr. Marovic has also made numerous changes to the exterior of the building, improving its appearance and curb appeal. The entire neighborhood looks better with his outdoor improvements, from the chain link fenced off dirt lot converted to a cleanly paved parking area and the removal of the so-called "weed gardens" on the front of the building into the new streamlined, custom-built flower boxes. Even a simple fresh coat of paint has changed the building tremendously and given it (and the surrounding area) new life.

The Malarky's CUP application is particularly important to me because of my very close proximity to the building; I live a block away. I cannot see that his further renovations would harm the community in any way, only continue to improve our neighborhood. I want to express my support for the CUP application as submitted, with existing hours of operation. I am a very close neighbor and am not affected now, and don't think it would be anything but more success and beneficial to his closest neighbors.



Perry Anthony
428 31st Street
Newport Beach, CA 92663

Emerald Bay Company

December 18, 2010

Frank Kosi
EMERALD BAY COMPANY
2824 Newport Blvd
Newport Beach, Ca. 92663

RE: Malarky's Irish Pub

To Whom It May Concern,

I am writing this letter for the purpose of expressing my support and excitement regarding the proposed improvements to Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

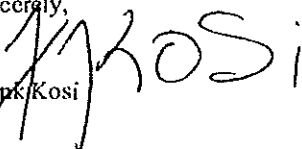
I reside at 2824 Newport Blvd, very close to the Malarky's Irish Pub. I was happy to hear that the proposed improvements to this establishment would include a new upgraded seating area with a fireplace, new restrooms and an outdoor patio for diners. As a real estate investor, I am constantly looking for new and interesting places to entertain clients while conducting business. I first started frequenting Malarky's about fifteen years ago. However, I rarely frequented Malarky's in the past few years because of its deteriorating condition. Since, Mr. Marovic acquired Malarky's last April it has noticeably improved. He cleaned up the dirt lot next to the restaurant and put in a new parking lot. The dirt lot was an eye sore for a long time and I'm happy that he cleaned that up.

With the proposed new dining area, outdoor patio and restrooms the improved Malarky's will definitely be a destination for my family, friends and clients. I look forward to being able to have dinner and drinks at the new Malarky's and enjoying my short walk home.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends, family and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,

Frank Kosi

A handwritten signature in black ink, appearing to read 'FKOSI', written over the printed name 'Frank Kosi'.

December 16, 2010

Bruce Schoenberger
408 31st Street
Newport Beach, CA 92663

To Whom It May Concern,

I am writing this letter for the purpose of expressing my complete support regarding the proposed improvements to Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I am a Newport Beach resident for over 25 yeaes, I live at 3800 Channel Place. My 2nd Home /Studio, Showin Galleries & Gardens is located directly across the street from Malarky's Irish Pub off the Newport Beach Peninsula at 408 31st Street. I am one of the closest properties across the street from Malarky's Irish Pub.

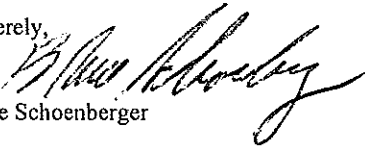
I first met Mr. Marovic when he acquired the business last April. He was kind enough to knock on my door and introduce himself as the new owner of Malarky's Irish Pub. Mr. Marovic has been very open about his plans and even asked me for any input that I may have regarding his project.

I was shocked to hear that Mr. Marovic didn't have complete support of the neighborhood. Especially since acquiring the Malarky's location, Mr. Marovic has already done more to beautify the neighborhood than any other neighbor in close proximity. For example, he took the vacant lot that became a weed garden surrounded by a chain link fence and transformed it into one of the most beautiful parking lots in the entire city.

Since Mr. Marovic acquired Malarky's I have noticed a major improvement to the food and service. I went from rarely frequenting Malarky's for lunch and dinner to eating at the establishment quite often. The new dining area, outdoor patio and restrooms will allow Malarky's to further improve its food and service by attracting a more desirable demographic. I look forward to being able to have dinner and drinks at the new Malarky's with my family, friends and business clientele.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends, family and neighbors intend to support the project as submitted! Should you have any questions or concerns, please feel free to contact me at 949-929-2136.

Sincerely,


Bruce Schoenberger

Brent Ranek
246 Lugonia St
Newport Beach, CA 92663
(949)650-2708

Date: December 20, 2010

To: CNB Planning Department
From: Brent Ranek
Re: Malarky's Restaurant

To Whom It May Concern;

I have lived and worked in the city of Newport Beach for over thirty years. I bought my first home in 1986, which I still own and rent while maintaining my primary residence also in the city. The main reason I invested in the city of Newport Beach was because of its beauty and status. These investments have held their own in this troublesome market. And I believe it is because the way this city maintains a high level of standards.

When I was asked by Mario Marovic, the new owner of Malarky's Irish Pub to write a letter on his behalf I was shocked to hear there was some reluctance by the city to have him make improvements to the property, while maintaining the existing hours of operation. For years I have driven by Malarky's and seen old washed out green awnings and a weed covered empty lot next door. I do know quite a bit about the property because at one time I approached the previous owner about buying the property. The dilapidated lot next door has been sitting empty for almost 17 years now. And now it is so nice to see that it has finally been landscaped and set up for parking.

Malarky's has been a local landmark for over 30 years now and any upgrades to this facility are long over due. Mario Marovic is a "get it done" type of businessman who has already proved with his other two businesses in the city that he uses sound judgment when it comes to improving property's. Landmark Steakhouse and The District Lounge are excellent examples of how simple upgrades can turn an average establishment into a profitable, destination "Hot Spot" that benefit all involved.

Brent Ranek
246 Lagonia St
Newport Beach, CA 92663
(949)650-2708

The fact that Mario is willing to put forth his own effort and capital to make these improvements to another restaurant in this city, to me seems that he is dedicated to making this a better city to live and work in. These improvements will benefit the city by increasing revenues and the new menu and chef that Mario has provided at Malarky's Restaurant gives all of us another option for dinner.

As a multiple home owner and past restaurant owner in the City of Newport Beach, I would trust this very successful businessman and allow him to make these necessary changes and improve another existing establishment in the City of Newport Beach.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Ranek", written in a cursive style.

Brent Ranek



Southern California Division
ARCTIC GLACIER INC.

December 17, 2010

Andrew Gabriel
419 Evening Star Lane
Newport Beach, CA 92660

To Whom it May Concern:

My name is Andrew Gabriel and I am a third generation Newport Beach resident. I grew up in the city of Corona Del Mar and currently own a home in Dover Shores. My family owns residences throughout the Newport Beach area, including the Newport Beach Peninsula.

At one time, I was a frequent customer at Malarky's Irish Pub. In the past few years, I have not spent a great deal of time on the Peninsula or at Malarky's. However, since Mr. Marovic took over operations last April, it has given me an opportunity to rediscover the Malarky's Irish Pub. The few changes that have been made at this location have been great. I look forward to supporting his CUP Application and plans.

Please keep me posted on the progress of the currently submitted CUP application and plans. I intend to support the CUP application.

Thank you for your time and consideration..

Sincerely,

A handwritten signature in black ink, appearing to be "AG", written over a horizontal line.

Andrew Gabriel

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Nathan Holthouser
126 41st Street
Newport Beach, CA, 92663

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard

To Whom it may concern,

I reside on the Newport Beach Peninsula. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. I have personally listed and sold multiple commercial properties in Newport Beach and other coastal Orange County cities. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues. I am very pleased with the improvements that have been done already to the adjacent parking lot, and I look forward to the positive impact that the new improvements to Malarky's will have on the Newport Beach Peninsula.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,



Nathan Holthouser
Associate

December 15, 2010

To The City of Newport Beach Planning Department and Police Department:

My name is Gregory Ozimec. I am a 20-year Newport Beach resident and home owner, with two children in the local schools. I wanted to take the time to express my support for the proposed plans at 3011 Newport Boulevard, otherwise known as Malarky's Irish Pub.

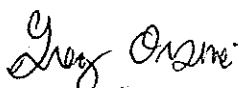
I am very happy with the changes that have already taken place, especially the new paint job, façade improvements and new parking lot. I have reviewed the blueprints for Malarky's planned new restrooms and dining area, and I am in complete support of the Malarky's Irish Pub's further improvements, as are many of my friends and neighbors.

I often times ride my bicycle to Malarky's to meet friends for dinner and drinks, and feel that the additional parking recently provided by Malarky's amply supports the planned new dining room. We are looking forward to the new improved Malarky's.

By approving the Malarky's CUP application the city will allow Malarky's to create a facility that will cater to an upscale demographic. Please keep me informed of any substantial changes to the proposed CUP application. I intend to support the proposed plans and use as submitted.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Greg Ozimec". The signature is written in a cursive, flowing style.

Gregory Ozimec
315 Canal Street
Newport Beach, CA 92663

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17, 2010

Brin Hamblin
20362 Santa Ana Ave. #13
Newport Beach, CA 92660

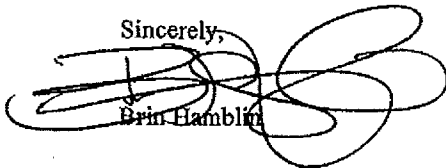
To Whom It May Concern,

I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, at 3011 Newport Boulevard, Newport Beach.

I recently moved to Newport Beach from Indiana and have been to Malarky's quite a few times. It reminds me, a lot, of places back home and I feel it's a perfect spot for the proposed plans. I was informed of the new design by colleagues of mine and think they would be able to compete well with other area venues. I find that in my recent move here, there aren't as many true to form outdoor dining places as I would've expected. And these plans would allow for Malarky's to hold more people both indoors and out, whether it be for dining or night life.

I am completely in support of the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Brin Hamblin

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Daniel Blackwell
126 41st Street
Newport Beach, CA, 92663

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard


To Whom it may concern,

I reside on the Newport Beach Peninsula. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,


Daniel Blackwell
Associate

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Shane McConnell
1167 Campanile
Newport Beach, CA, 92660

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard


To Whom it may concern,

I reside in the city of Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,



Shane McConnell
Senior Associate

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 851 - 3030
Fax: (949) 833 - 0701
www.MarcusMillichap.com

December 17, 2010

Mark Bridge
1433 Superior Ave #142
Newport Beach, CA 92663

To Whom It May Concern,

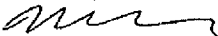
I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I reside in Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business on a regular basis. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Mark Bridge

Marcus & Millichap

Real Estate Investment Services

Scott G. Hook
First Vice President Investments
Senior Director
National Retail Group

December 17, 2010

To Whom It May Concern,

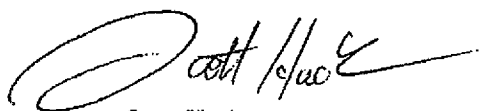
I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I reside in the Harbor View Community of Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business on a regular basis. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Scott Hook

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Dir: (949) 419-3224
Fax: (949) 419-3343
www.MarcusMillichap.com

Frank R. Fasel
P: (714) 966-2008
F: (714) 876-6397
frf@faselnefulda.com

Thomas A. Fasel
P: (714) 966-2008
F: (714) 876-6397
taf@faselnefulda.com

Jordan B. Nefulda
P: (714) 966-2008
F: (714) 876-6397
jbn@faselnefulda.com

**Fasel
Nefulda
LLP**

Fasel Fasel & Nefulda LLP (US)
www.faselnefulda.com

Orange County
3200 Bristol Street, Suite 615, Costa Mesa, CA 92626
Los Angeles and Long Beach
One World Trade Center, Suite 800, Long Beach, CA 90831

December 20, 2010

City of Newport Beach
Planning Department
Attn: Jaime Murillo
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Improvements to Malarky's Irish Pub

Dear Ms. Murillo,

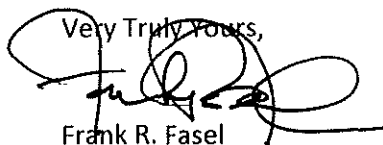
I am a current resident of Balboa Peninsula and a local restaurant patron. Recently, Malarky's, located a block from my house, dramatically transformed the previous unsightly street corner of 30th and Newport Boulevard to an attractive restaurant destination through the addition of a new parking lot, planters and landscaping, eye-catching exterior paint, and a newly enhanced entrance. However, improvements to the site need not and should not stop at this "first phase" of redevelopment.

I have thoroughly reviewed Malarky's "phase two" improvement and remodel plan which include a new outdoor dining area, an expansion and remodel of the in-door dining area, the use of valet parking, while maintaining the current hours of operation for the entire venue. Contrary to the opinions of a few misinformed residents, I am certain that the proposed improvements will NOT be a nuisance to the surrounding area but instead greatly benefit the City of Newport Beach, its residents and visitors by:

1. Generating taxable revenue for the City;
2. Creating an attractive retail/restaurant district; and
3. Attracting sophisticated clientele.

For the aforementioned reasons, I would like to express my unequivocal support for ALL of the proposed improvements to Malarky's. Additionally, I urge you, on behalf of the City of Newport Beach Planning Department, to approve the current set of plans in their present form and immediately issue a building permit to Malarky's ownership so that they may begin "phase two" construction.

Very Truly Yours,



Frank R. Fasel
Partner

**Malarky's Irish Pub, 3011 Newport Boulevard
PA2010-172**

List of Total Correspondence Received as of 5:00 p.m. on March 3, 2011

| In Favor of Project | |
|---------------------|---------------------|
| 1 | Richard Luehers |
| 2 | Dena Baron |
| 3 | Greg Mayes |
| 4 | Perry Anthony |
| 5 | Frank Kosi |
| 6 | Bruce Shoenberger |
| 7 | Brent Randek |
| 8 | Andrew Gabriel |
| 9 | Nathan Holthouser |
| 10 | Gregory Ozimec |
| 11 | Brin Hamblin |
| 12 | Daniel Blackwell |
| 13 | Shane McConnell |
| 14 | Mark Bridge |
| 15 | Scott Hook |
| 16 | Frank Fasel |
| 17 | George Leeper |
| 18 | Ted Mortenson |
| 19 | Tom Tobbin |
| 20 | Colin Weeks |
| 21 | Bill Guidero |
| 22 | Steven C. Nicholson |
| 23 | Oliver Fleener |
| 24 | Caren Lacona |
| 25 | Jill Hunt |
| 26 | |
| 27 | |
| 28 | |
| 29 | |
| 30 | |
| | |
| | |
| | |
| | |

| Opposed to Project | |
|--------------------|----------------------------|
| 1 | Frankk J. Bruder |
| 2 | Justine Hurry |
| 3 | Rick & Shelly Clewett |
| 4 | Larry Mathena |
| 5 | Kevin Finn |
| 6 | Joe Stack |
| 7 | Paula and Roger Hocken |
| 8 | Marcus & Kristen Wilson |
| 9 | Irwin Goldring |
| 10 | Tom O'Loughlin |
| 11 | Pat Klingensmith |
| 12 | Leonard Applebaum |
| 13 | Mike Deschenes |
| 14 | Rick Cunningham |
| 15 | Carol Martin |
| 16 | Tony & Marie Pierotti |
| 17 | Robert Klar |
| 18 | Mary and Jim Drennan |
| 19 | Dean & Ann Roberts |
| 20 | Sarah B. Z. Calvert |
| 21 | Neal Shehab |
| 22 | Linda Formuzis |
| 23 | Stacy Nielsen Turek |
| 24 | Katie Stuermer |
| 25 | Louise Fundenberg |
| 26 | Pamela Garrett |
| 27 | Drew Wetherholt |
| 28 | Irena and Richard Glassman |
| 29 | Terry Martin |
| 30 | Cindy Koller |
| 31 | Lori Morris |
| 32 | Sonja Burns |
| | |
| | |
| | |
| | |

Correspondence
Item No. 5a
Malarky's Irish Pub
PA2010-172

Additional Correspondence Received In Support

Murillo, Jaime

From: Jill Hunt [jillbhunt@sbcglobal.net]
Sent: Thursday, March 03, 2011 3:06 PM
To: Murillo, Jaime
Subject: Malarkeys

I live in West Newport and think all efforts, including expansion, is badly needed in the area. Malarkeys is a great bar and will do a good job and Crow Bar is a much needed cool restaurant in the area.

Please allow the expansion and development to move forward.

Thanks

Jill Hunt
251 Prospect St

Sent from my iPhone

***Caren Lancona
1900 W. Oceanfront
Newport Beach, CA 92663***

March 1, 2011

Mr. Earl McDaniel
Chairman
Planning Commission
City of Newport Beach
3300 Newport Boulevard
City of Newport Beach, California 92663

RE: Support for Malarkys Project

Dear Mr. McDaniel:

As a peninsula resident and Newport Beach businesswoman I am writing to express my support for the Malarkys expansion.

My business, B Scene Advertising, does advertising, event planning, public relations and other related services. We run charity and promotional events for entities such as The Real Housewives of Orange County and the Miss Newport Beach Pageant. I have trouble finding quality venues large enough to accommodate the 12 pre-events and main event. We also like to use different facilities so as to have variety and not the same place every time.

After the remodel, Malarkys would be a perfect location for us to hold an event.

Driving down Newport Boulevard I have seen the new landscaped parking lot and improved exterior of the building which is definitely an improvement to the peninsula. I believe the addition of the outdoor dining patio and indoor remodel/expansion will raise the level of clientele of Malarkys. This is good for everyone. All ships rise with an incoming tide.

I do think the outdoor patio should be allowed to stay open till at least 11:00 p.m. In the summer time especially I enjoy a late dinner with friends after work or on the weekend.

Please vote to approve the Malarkys project. Thank you.



Caren Lancona

Murillo, Jaime

From: Mario Marovic [mario@loungegroup.com]
Sent: Thursday, March 03, 2011 12:30 PM
To: Murillo, Jaime
Subject: FW: Malarkys Argument

Jaime:

Below is an email from Oliver Fleener for your review.

----- Forwarded Message -----

From: "Fleener, Oliver" <Oliver.Fleener@Grubb-Ellis.com>
To: brenttranek@yahoo.com
Sent: Thu, March 3, 2011 11:04:31 AM
Subject: Malarkys Argument

Brent-

Due to my family having that bad flu going around I might not be able to make it to planning commission.

If I can't make it... read this on my behalf or take snippets out.

My name Oliver Fleener I'm a resident here Newport Beach. I've been a resident here for my entire life. I was a lifeguard here for 10 years; my dad recently retired from the building department here at the City; I am married with three kids, and candidly I enjoy nothing more than living here in this great City. My family participates in all the local activities, sports associations, Jr Lifeguard programs etc. My wife runs a small retail shop just down on PCH. My business is also in Newport Beach as commercial real estate broker with Grubb & Ellis for almost 15 years now. I specialize in office, retail, sales and leasing as well as redevelopment. Needless to say I am very familiar with the City and have a STRONG vested interest in what happens here – not only for business but for the general and personal reasons too. As a result, I wanted to address Malarky's proposed reconfiguration on all three (3) fronts – Business – General - Personal.

From a business perspective – Malarky's should be allowed their request simply to help local businesses. Here are some simple statistics to consider: First and foremost as we all know the commercial real estate market has struggled greatly in the last few years. Vacancy rates have doubled to near 20% and rents have declined a 1/3 to almost in half. As a result property values have fell dramatically – when property values fall, owners and businesses do not put additional capital into them. This cycle is contagious and repetitive. By way of review I was the listing broker for the Lido Village just across the way and that was a VERY difficult site to work on. There were/are no tenants, the rents are so low they can't be justify with lenders do deal at and candidly this area and the product is just plain tired and run down. This is a theme/aura that seems to stretch to neighboring buildings here on the peninsula – heck why is the City Hall moving out of here? If one building / tenant can't get business done... why would another chose to move here? It is a domino effect. Thus the City needs to support all businesses the best they can to stop a spreading anemic environment. THEY CITY NEEDS TO ADDRESS THIS. In addition, the City needs a PR boost in how it works with its local businesses.

Just by way of review, I list anywhere from 500,000 to 1,000,000 SF of product, and represent over a 100 tenants moving into and out of Newport Beach at any given time. *The general consensus amongst my clientele is "NEWPORT BEACH is difficult to do business with."* It is well known in the business community that this is a NIMBY (Not In My Back Yard) controlled city. Most businesses would rather not put up the fight to

deal with growth, changes etc. The reason I believe this to be true is because most businesses are too small to deal with an emotionally charged opposition. Did you know that the average tenant size in Newport Beach is 3-4 employees and occupies only 800-1600 SF. This is tenant size makes up approximately 85% of the tenant mix here in Newport Beach. Now consider Malarky's which is a 5,000 sq ft building and only has 1,150 feet of customer space; which puts this business statistically in the top 15% of the tenant sizes here. Now why would the City not want to assist them? More importantly as I noted prior, the City needs to present a better / more business friendly environment to tenants – ESPECIALLY ONES THAT ARE TRYING TO GROW – when the rest of the market is struggling. The City needs to fix this image of a desolate business environment – especially here on the peninsula.

Speaking of a desolate environment – that leads to my 2nd concern from a general observation as a resident of Newport Beach. I am concerned with what is going to happen in this greater peninsula area once the City Hall moves. I think it is great, and it makes sense that the City is moving up to Avocado / Newport Center – but I personally fear that once the City has left, this area will be abandoned as the proverbial “other side of the tracks” – kind of out of sight, out of mind. My reasoning for this is again... Lido Village. I know there was a meeting about a month ago reviewing concepts for a redevelopment – but again nothing has happened for nearly 15 years – maybe not to the City's fault – but again, this whole area is tired and nothing “appears” to be happening. This is world class real estate, in one of the richest places on the planet, that is essentially dead on the vine! As for Malarky's, here is something that the City can make happen! The City did a great job in putting in the “façade entry ways just over the bridge” and cleaned up the parking lots in the area... now the neighboring businesses need a chance to upgrade and compliment what the City has done! In fact I wish there were 20 more businesses in the area that would line up out the door right now and do what Malarky's is proposing to do. This area is SO OVERDUE for a “face lift” not just on the outside but also in the business environment. There needs to be a desire for the City's residents to come and shop here – and not just the transient visitors. I want to support local businesses – but I also want - to want to go there. Help these businesses improve themselves.

That leads to my final point which is a personal one. As I mentioned prior, I have lived here my whole life. This peninsula has not changed much at all over my lifetime. Some of these businesses and buildings are the same as long as I can remember – which is nice and nostalgic for most NIMBY's – but some of these places are just rotting into the ground. I personally would like to see this place cleaned up and yet keep that feel of what the peninsula is. When I saw that Malarky's finally turned that old, dirt and weed invest, lot next door to it into a usable – very nice looking – parking lot... I mean WOW. That only took 20 years to do? And Malarky's finally painted the building - That took 20 years? And yet there are still NIMBY's saying – “No change!”? What are they thinking? I have to assume they knew what and where they purchasing? For them to complain is like a home buyer purchasing a house under an airport and then complaining about the planes? What? The ironic thing is... Marlarky's is not changing... it is getting better / cleaner / more presentable. Marlaky's is not proposing to change a church into a liquor store, or a daycare into an adult lounge. They are cleaning up the building and making it more functional – the use is the same. The City should support Malarky's... not only for common sense purposes, but the purposes stated above – help local businesses, improve the City image, demonstrate that it is not abandoning this area as the other side of the tracks, and for goodness sake - help these businesses help themselves.

Murillo, Jaime

From: Steve Nicholson [bchnick@pacbell.net]
Sent: Thursday, March 03, 2011 11:10 AM
To: Murillo, Jaime
Subject: Regarding Malarkys improvements

Dear Jaime Murillo,

I am a twenty-three year homeowner at 212 30th Street, right behind the new Landing Shopping Center. My wife and I do not have any issues with Malarky's and their improvements. They have a responsible staff. Mario has made vast improvements to the exterior of Malarky's and the corner of 30th Street and Newport Boulevard. Wow!

We would like to see him continue on with the interior renovations and improvements. I believe a majority of our neighbor's which I keep in contact with are in favor of the improvements and clean up.

We wish Mario much success with his business endeavors. Thank you for your time. I can be contacted at the cell phone below for more information about the neighborhood if needed.

Best regards,

Steven C. Nicholson
(949) 233-4416

Murillo, Jaime

From: Bill [guiderodesign@att.net]
Sent: Thursday, March 03, 2011 7:23 AM
To: Murillo, Jaime
Subject: Malarkeys Restaurant

Planning Commission

Re: expansion of existing restaurant

I'm a local resident in Newport Beach for 40 years.
All of the 40 years on the peninsula. I also have my own
architectural design business on 30th Street for approximately 20 years.

Malarkey,s has always been a upstanding establishment in our community.
I either ride my bike or drive by Malarkey's every morning on my way to work.
The grounds surrounding the restaurant is always in pristine condition.
I've enjoyed the food and sporting events since they have opened in the 70's.
I'm in total support for the expansion of the restaurant.

Thank you Bill Guidero

William Guidero planning and design
425. 30th Street suite#23
Newport Beach, California 92663
guiderodesign@att.net (949) 675-2626

Sent from my iPad

Murillo, Jaime

From: colinweeks@hotmail.com
Sent: Wednesday, March 02, 2011 9:53 PM
To: Murillo, Jaime
Cc: Nikol Weeks
Subject: Malarkys patio issue

Mr. Murillo:

My name is Colin Weeks, and I have lived at 214 30th Street for the past 5.5 years. I live 2 houses over from the Albertsons (Pavillion) and Malarkys parking lot, and directly across the street from Mr. Drew Wetherhold.

In the past 5.5 years, I have never had an issue with Malarkys, its staff or its patrons. I am writing this letter to make sure that the City of Newport Beach knows that Mr. Wetherhold's letter opposing the outdoor patio initiative DOES NOT represent neither my view nor that of my wife. In fact, I believe that Mr. Wetherhold's letter solely represents his own personal agenda. I sincerely believe that Mr. Wetherhold's opinions are not shared by the majority of his neighbors, and I encourage you to speak with all of them.

Mr. Wetherhold decided to built a house on a lot attached to a retail parking lot, and since that time he has tried to force Albertsons, and now, Malarkys to cater to his own personal agenda and make they cave into his demands.

Not only has Malarkys been a great neighbor and Newport Beach institution, but its recent cosmetic additions to the facade and new parking lot have made the 30th Street neighborhood even nicer. I think it is sad that people waste taxpayer time and money to manipulate the system to meet personal agenda.

I am happy to discuss this matter in any level of detail, in any venue - public or private.

Sincerely,

Colin S. Weeks
(949) 500-3512

1529 Miramar Drive
Balboa, CA 92661

March 2, 2011

Mr. Earl McDaniel
Chairman
Planning Commission
City of Newport Beach
3300 Newport Boulevard
City of Newport Beach, California 92663

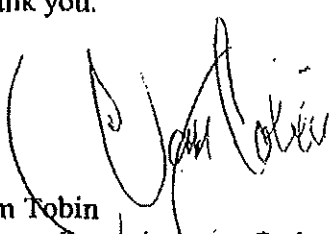
RE: Support for Malarkys Project

Dear Mr. McDaniel:

Last night my wife and I had a great prime rib dinner at Malarkys at their Tuesday night "prime rib" special. For many years I have been a loyal customer of Malarkys. The new owner, Mario Marovic , is making the premises and food even better.

Mario has also done a great job cleaning up the parking lot and building.
I support his modest request for additional dining room space and an outdoor patio.
When he attracts a higher clientele, I just hope he doesn't raise the prices to much.

Thank you.



Tom Tobin
Former Commissioner, Parks, Beaches and Recreation Commission
Peninsula resident

Murillo, Jaime

From: Mario Marovic [mario@loungegroup.com]
Sent: Sunday, February 27, 2011 5:08 PM
To: Murillo, Jaime
Subject: FW: Malarky's

Dear Jaime:

Below is an email from I believe to be the closest homeowner and resident facing Malarky's. They indicated full support of our project!

Sincerely,
Mario Marovic

From: George Leeper [mailto:gcleeper@gmail.com]
Sent: Sunday, February 27, 2011 4:33 PM
To: Mario Marovic
Subject: Malarky's

Mario,

Judy and I have no objections to Marlarky's remodel and expansion.
We live at 419 30th St and can see the place from our bedroom.
We are happy with your management and will support you any way we can.

If I can be of any further help, please feel free to call.

George Leeper
419 30th St
Newport Beach, Ca

949 723 5333

Murillo, Jaime

From: Ted Mortenson [ted.mortenson@sbcglobal.net]
Sent: Sunday, February 27, 2011 2:52 PM
To: emcdaniel@sunwestbank.com; Murillo, Jaime
Cc: 'Louise Fundenberg'; dwetherholt@marcusmillichap.com
Subject: My Feedback regarding fellow resident Wetherholt and the FW: STOP MALARKY'S BAR EXPANSION-THIS DOES IMPACT YOU

FYI –

Following is a copy of my reply to Louise Fundenberg's e-mail regarding Mr. Wetherholt's issues surrounding about his problem with intoxicated people in Newport Beach..... and Malarky's interest in expanding its business. Mr. Wetherholt seems to be one of those people who want to control the rights of others including restricting business owners even more than unfortunately they already are.

Thank you,

Ted Mortenson

From: Ted Mortenson [mailto:ted.mortenson@sbcglobal.net]
Sent: Sunday, February 27, 2011 2:36 PM
To: 'Louise Fundenberg'
Subject: RE: STOP MALARKY'S BAR EXPANSION-THIS DOES IMPACT YOU

Dear Mr. Wetherholt,

Yes, this does impact me even though I have only set foot in Malarky's once in the last 30 years. In fact it pisses me off. Pardon my frankness, but who should care what you think regarding your desired size of Malarky's building? Every American business owner still has a right to improve or otherwise make larger his property if he so chooses (existing building codes notwithstanding). They don't have to please you!

If you have a problem with drunk people, you need to address that directly and honestly instead of masking your intentions. You should know, there are tried and true legal avenues currently enforceable on the owners of restaurants or bars regarding intoxicated customers. Your concern seems to be Malarky's bartenders continue to serve alcohol to drunk patrons & customers... or otherwise attract drunk patrons - right?

Well, regardless of your true intention(s), you have no moral or legal right to limit the size of Malarky's physical building other than what is designated by current CA and NB codes. I wish people like you would deal more appropriately, more honestly and according to existing law with your individual concerns regarding others. Or, go ahead and try to change the law so that you and your 'friends' can decide how big Malarky's building should be, or even exist at all. That would solve your "additional 100+ intoxicated individuals" concern wouldn't it?

And thank you for pointing this out though so that I can let my opinion support current recommendations for approval.

Respectfully,

Ted Mortenson

From: Louise Fundenberg [mailto:pier2pier@yahoo.com]
Sent: Sunday, February 27, 2011 11:22 AM

To: pier2pier@yahoo.com

Subject: Fw: STOP MALARKY'S BAR EXPANSION-THIS DOES IMPACT YOU

FYI Louise Fundenberg

----- Forwarded Message -----

From: "Wetherholt, Drew" <Drew.Wetherholt@marcusmillichap.com>

To: dwetherholt@marcusmillichap.com

Sent: Sat, February 26, 2011 4:15:14 PM

Subject: STOP MALARKY'S BAR EXPANSION-THIS DOES IMPACT YOU

We really need the community's support. Believe it or not, the planning department is ACTUALLY recommending APPROVAL which would basically DOUBLE the size of Malarkys bar and put an additional 100+ intoxicated individuals roaming our neighborhoods. Planning Dept is basically putting in ANOTHER FULL-SCALE BAR in an area that is already over-concentrated with ABC establishments and has an excessive amount of alcohol related problems.

PLEASE REVIEW THE ATTACHED DOCUMENT AND TAKE JUST A MOMENT TO **SEND AN EMAIL TO THE CITY SAYING THAT WE DO NOT SUPPORT THIS APPLICATION.** WE DO NOT WISH TO SEE MALARKY'S BAR EXPAND AS THIS WILL ONLY HAVE A NEGATIVE IMPACT TO OUR COMMUNITY. REQUEST THAT THE PLANNING COMMISSION FULLY DENY IT.

WE WOULD ALSO ENCOURAGE TO **COME TO THE PLANNING COMMISSION MEETING THIS THURSDAY, MARCH 3RD AT 6:30PM AT THE CITY HALL.** YOU'RE WELCOME TO VOICE YOUR CONCERNS- JUST HAVING THE COMMUNITY WELL-REPRESENTED IS VERY IMPORTANT! THIS IMPACTS EVERYBODY ON THE PENINSULA AND ON LIDO .

Should you have any questions, please do not hesitate to contact me. Please forward to other concerned residents and let's make the Peninsula a better place. Thank you for your support!

Drew Wetherholt- Resident

949-466-6088

TO: Planning Commission
FROM: Bret Rosol
RE: Malarkys
DATE: 3 March 2011

I live here in Newport Beach and have since graduation from college. I graduated with a Finance degree from the University of Denver in 2005. I work as a principle of a regional land brokerage firm. Most my clients have a net value in the tens of millions, if not 100 million dollars.

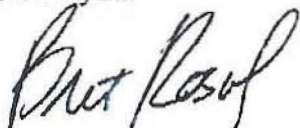
I like Malarkys and go there to eat dinner, have a drink and relax.

I've read in the Daily Pilot complaints of a certain neighbor. When leaving Malarkys I do not puke, fight, jaywalk, break into homes or leave unmentionable things behind.

The expansion and remodel of Malarkys will only make it a much nicer facility and attract a higher end customer. Malarkys is really no different as a bar then Cannery except Cannery has nicer bathrooms.

Please approve Malarkys CUP.

Thank you.



Bret Rosol
1565 Haven Place
Newport Beach, CA 92663

RECEIVED BY
PLANNING DEPARTMENT

MAR 03 2011

CITY OF NEWPORT BEACH

Correspondence
Item No. 5b
Malarky's Irish Pub
PA2010-172

Additional Correspondence Received In Opposition

Murillo, Jaime

From: Lori Morris [lorimorris@gmail.com]
Sent: Thursday, March 03, 2011 3:29 PM
To: Earl McDaniel; Susan/Barry Eaton; Michael Toerge; ameri@rbf.com; Robert Hawkins; cwunsworth@cox.net; bhillgren@highrhodes.com
Cc: Kiff, Dave; Rosansky, Steven; Selich, Edward; Mike Henn; Hill, Rush; Gardner, Nancy; Curry, Keith; Daigle, Leslie; Brown, Leilani; Murillo, Jaime
Subject: Malarky's Bar Expansion Application

March 3, 2011

Please enter into the public record

City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663

Attention: Planning Commission
City Clerk
City Council
Jaime Murillo

Reference: Malarky's Application up 2010-039

Planning Commission, City Council and Staff:

I would like to echo Cindy Koller's request to deny the Malarky's Bar expansion application.

As a resident of the Peninsula I am appalled that the staff report submitted does not go into greater detail regarding the impacts to residents this expansion would most certainly impose.

The Peninsula zone has a far greater burden than any where else in the City of Newport Beach in regard to alcohol establishments.

As we have been involved with the (hopefully) better use of the old City Hall site...it would seem at this point the city staff would look at the entire impact of adding even more space for drinking alcohol in such close proximity to the future use of that site.

Residents of the Peninsula should not continue to bear the burden of even ONE MORE bar or expansion and we would expect our city leaders to be looking for ways to mitigate the problems we have now with over crowded bars, not enough parking and the general crime that goes along with that.

Our City Council just voted to give our Police Chief and his Dept. more latitude in dealing with the problem we now have with alcohol establishments...yet City staff seems to be ignoring the letters of request to deny this application written by our very own Police Dept. detectives. I find that troubling and of great concern.

As was reported, we had a death recently in our city directly attributed to the intoxication and drowning of a young man who had frequented the very same bars in and around the area in question. I do not wish to use his horrible death to remind our city employees of the dangers that come with being complacent in regards to too many bars in such a dense area and close proximity to a LARGE body of water but it cannot be ignored.

PLEASE...residents are looking to you to help end the over saturation of bars and drinking establishments in the Peninsula zone.

I am asking you to deny this request and in the future please be mindful of the already established burden that the Peninsula resident must endure.

Thank You,

Lori Morris
West Newport

Murillo, Jaime

From: cynthia koller [gracenb1@yahoo.com]
Sent: Thursday, March 03, 2011 2:38 PM
To: Earl McDaniel; Susan/Barry Eaton; Michael Toerge; ameri@rbf.com; Robert Hawkins; cwunsworth@cox.net; bhillgren@highrhodes.com
Cc: Kiff, Dave; Rosansky, Steven; Selich, Edward; Mike Henn; Hill, Rush; Gardner, Nancy; Curry, Keith; Daigle, Leslie; Brown, Leilani; Murillo, Jaime
Subject: Malarky's use permit application 2010-039

March 3, 2011

Please enter into the public record

City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663

Attention: Planning Commission
City Clerk
City Council
Jaime Murillo

Reference: Malarky's Application up 2010-039

Gentlemen:

After reviewing the entire staff report on the Malarky's use permit application I would like to express my concerns with the 'expansion' and staff findings.

It seems the city planning staff has penciled a standard response to the applicant but has not performed due diligence when it comes to representing the factual concerns of the residents who live on the Peninsula and near this project.

It is commendable and the community is very pleased that Mr. Marovic would like to further improve what has long been an eyesore in this area and yes he has made substantial beautification improvements and we are grateful but the residents concerns of I increases of noise, nuisances, foot traffic, vehicle traffic and crime associated with an increased drinking clientele seems to be overlooked.

No one in the community is against Mr. Marovic trying to improve his business especially in these economic times but a request to double the inside occupant load from 91 to 198 then adding an additional 49 patrons on the patio at a drinking establishment, any bar/restaurant in such a high density area is going to cause a considerable added undue burden on the residents who live in close proximity to this property, a huge strain on resident parking (patrons using Albertson's parking lot), an added impact on Hoag's already impacted ER (per the physicians who work there) and a overload on our city services(PD,Fire and Paramedic).

Mr. Marovic has outlined a well thought-out security plan to try to reduce the impacts he knows will come with a large jump in clientele but we all are painfully aware that no matter how well intentioned and implemented his plan is, it is only as good as the area he can apply it to, once these clients leave the property the burden and impacts fall directly on the residents and the Newport Beach Police Department.

As one resident my police logs represent a small look into the late night impacts suffered by residents who live in such a dense mixed-use area near these bars on the Peninsula (fighting, crude loud language, public urination, vomiting on our properties, public sex, increase vehicle traffic using side streets to avoid Police units and a barrage of vehicle hit and runs).

I sincerely wish Mr. Marovic continued business success and applaud him for the positive changes he has made thus far but would respectfully ask the planning commission to consider the facts the NBPD submitted and deny his request for expansion of an outside patio area.

Sincerely,

Cindy Koller
West Newport Resident

Murillo, Jaime

From: Terry Martin [terry@caliberint.net]
Sent: Thursday, March 03, 2011 1:18 PM
To: emcdaniel@sunwestbank.com; Murillo, Jaime
Subject: Malarkey's Expansion

Gentlemen,

I am writing to request that you please vote against the proposed expansion of Malarkey's. I fail to see how permitting the expansion would be in the best interest of our community.

As I understand it, the plan is to increase the capacity of Malarkey's by around 100 patrons. Where will these additional patrons park? Parking on the peninsula is already a nightmare. It is also fair to expect that a number of these additional cars' drivers will be intoxicated after leaving Malarkey's. The last thing we need is an increase in the number of drunk drivers on our roads.

In addition, it is no secret that the party atmosphere of bars such as Malarkey's tends to spill out into the streets after 2:00AM causing headaches for residents in the immediate vicinity. I can not imagine how much worse the problem would get if 100 more patrons are added to the mix.

I am confident that after taking the time to engage in a cost-benefit analysis of the situation, you will come to the conclusion that allowing Malarkey's to expand would be detrimental to our community. Please do not approve the Malarkey's expansion. I thank you for your time.

Sincerely,

Terry Martin

122 Via Palermo, Lido

Murillo, Jaime

From: iaglass@aol.com
Sent: Thursday, March 03, 2011 11:25 AM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Cc: iaglass@aol.com
Subject: City of Newport Beach Project File No: PA2010-172, Malarky's Bar (3011 Newport Blvd.)

Dear Planning Commission,

As property owners of 215 30th Street, we join in the concerns of the Newport Peninsula community and want to express our opposition to the expansion of Malarky's Bar.

As the Planning Commission, you are quite aware of the data that many in the community are raising such the over concentration of ABC licenses in the Newport peninsula. Of course, you are also quite aware of the associated problems such as the high police activities with DUIs, and public intoxication, property damage to private properties in the area, as well as other public nuisances as vandalism, noise, brawls, trash and unruliness. The recklessness occurs during times well into the night and early morning when local residents -- families, children, the elderly -- should also be assured of their own right to peace and safety.

The sad fact that the Planning Commission should also consider are the consequences to Public Safety and Liability. With budgetary problems, can the city afford to enforce its laws on public safety? Can the city afford to place police officers on every ABC licensee on the peninsula during the operating hours of these ABC licensees and into the morning hours?

Sincerely,

Irena and Richard Glassman

Murillo, Jaime

From: Wetherholt, Drew [Drew.Wetherholt@marcusmillichap.com]
Sent: Thursday, March 03, 2011 9:18 AM
To: Murillo, Jaime
Subject: Malarkeys Expansion

Planning Commissioners:

I DO NOT WISH TO SEE MALARKYS EXPAND AS THIS WILL ONLY HAVE A NEGATIVE IMPACT TO OUR COMMUNITY. MALARKYS APPLICATION SHOULD BE DENIED FOR THE FOLLOWING REASONS:

- The peninsula area (District 15) already has an over-concentration of ABC establishments. According the Alcohol Beverage Control and Newport Beach Police, this small area has in excess of 78 ABC licenses. The most ABC licenses not only in the city but in all of Orange County!
- According to the Newport Beach Police, there is 1 ABC license per every 38 residents in District 15! This is extremely excessive and illustrates that there is NO NEED to increase drinking establishments in this area.
- Reporting District 15 has the highest crime rate in the city by far. According to the Newport Beach Police Department, this reporting district (RD) had a total of 946 reported crimes as compared to a city-wide reporting district average of 162 reported crimes (483.95% above the city-wide RD average). These statistics would tend to indicate that there is a strong correlation between the over-concentration of ABC establishments and police related activity. It should also be noted that the majority of these calls for service occurred between the hours of 6PM and 2AM. Not a very productive use of City, Police or taxpayers resources/money.
- The Newport Beach Police Department has also recommended AGAINST the Malarky's expansion to the Planning Department.
- The area does NOT need an additional 100+ intoxicated individuals roaming our neighborhoods at 2AM with the related problems of yelling/screaming, puking, public urination, sex, vandalism, fights, property damage, and drunk-driving etc. Residents are constantly being disturbed, woken-up and having to deal with these alcohol related problems. Intoxicated individuals have even tried breaking into nearby homes.
- Often residents get to start their weekends cleaning-up puke, broken bottles, and even condoms on the streets, sidewalks and even their front porches. Bras and panties are also found.
- Intoxicated people are constantly running across Newport Blvd and going against the traffic lights especially during the hours of 11PM-2AM. Individuals have nearly been hit by cars and traffic gets obstructed. Cabs often double-parked and create cab lines that also obstruct traffic.
- The surrounding area cannot handle the increased parking even if the applicant has met "zoning" parking requirements. Let's say there is an increase of 100 patrons and let's say only 30% of these patrons drive to the bar, there is simply nowhere for them to park. The municipal lots are full and we already have patrons parking all over our neighborhood. This is not acceptable as the area is already significantly under-parked and this provides no benefit to the community.
- Malarkey's is NOT a restaurant; it is a BAR! Malarky's hosts events such as the Zombie Pub Crawl featuring cheap drink specials.
- The patios of Rudy's bar and the Newport Beach Brewing Company are already too noisy with the related yelling and screaming both during the day and the evening. There is no need to add a patio to Malarky's bar as this will only contribute more noise and problems to the area. There is no logical place to put a patio area on the Malarky's property. All possible locations will have a negative impact on the surrounding community because the excessive sound from the patio will carry throughout the neighborhood. The proposed location is like an enclosed alley and the sound will only echo throughout the area.

- PUBLIC SAFETY is a real concern due to the continued increase of ABC establishments. Doubling the size of this bar will only increase the alcohol related problems within this district and the public safety is further endangered.

WHEN IS TOO MUCH, ENOUGH? PLEASE DENY MARLARKY'S APPLICATION.

Thank you for your time and consideration.

Drew Wetherholt
30th Street Resident

Murillo, Jaime

From: BILLEDPAM@aol.com
Sent: Wednesday, March 02, 2011 8:51 PM
To: Murillo, Jaime
Subject: Malarky's Bar Expansion

Hello - my husband and I built our home on the 200 block of 30th Street in 1991 and have lived here since that time.

We love living here and adjust to the summer visitors and renters that come and go. But the bar situation seems to be getting out of hand. We have the Brew Co. at the end of our street on Newport Blvd., Rudy's on 31st and Newport, Malarky's across the street from Rudy's and the new Pavillions Center will have at least 2 establishments "that we are aware of" that will serve liquor and have patios right next to Malarky's.

A prudent person would agree that enough is enough in this bar congested area we know as "home".

I am personally against an expansion of the "restaurant" bar that is closest to my home that impacts all of my neighbors. And I am against their obtaining a Parking Waiver. This will just impact our street all the more. For such a short street, we have a large number of owner/residents that really "know each other" and rally when an issue impacts us. And we have 5 children living on the 200 block.

I have been a Street Captain for Neighborhood Watch for a number of years and have gone to bat for my neighbor friends who have come to me with issues that they did not know how to handle. And the only thing I feel I can do concerning this issue is to advise you that I am one of many that does not want 100 more people packed into our local pub on our street causing traffic, taking up parking spaces and causing issues late at night as these drinkers try to find their vehicles and the loud talking and screaming that accompanies late night drinking, and then police involvement to assist us.

Thank you for your consideration.

Pamela J. Garrett
209 30th Street

Murillo, Jaime

From: Louise Fundenberg [lfundy@sbcglobal.net]
Sent: Wednesday, March 02, 2011 12:19 PM
To: Michael Toerge; Barry Eaton; Earl McDaniel; Charles Unsworth; Robert Hawkins; Bradley Hillgren; Fred Ameri; Campbell, James; Murillo, Jaime
Cc: Curry, Keith; Mike Henn; Daigle, Leslie; Rosansky, Steven; Selich, Edward; Gardner, Nancy; Kiff, Dave
Subject: Malarky's Bar

To the Planning Commission of Newport Beach;

I am sending this as a personal email. Malarky's is not CNBCA's area. It is in West Newport's area.

I feel very strongly that you should not grant the conditional use permit nor give a waiver for parking. This area is over parked now.

There the problem of taxis standing waiting for fares, double parked or circling around the area. This makes for much congestion on Newport Blvd.

You can stand at Malarky's front door and see two other bars across the street. The bar goers seem to go from one to the other.

They cross against the light or in the middle of the street. There is no regard for drivers. One of these days someone will get killed.

Putting a bar in the remake of the market on 32nd Street between Newport Blvd. and Balboa Blvd. should not be granted either.

If adding more bar space on the peninsula is some-body's idea of REDEVELOPMENT then bring back the one arm bandits.

Thank you all for the work you do for the city.
Sincerely,
Louise Fundenberg

Murillo, Jaime

From: Campbell, James
Sent: Wednesday, March 02, 2011 7:47 AM
To: Murillo, Jaime
Subject: Fw: deny any expansion permits to Malarky's

Jim Campbell
Acting Planning Director
Community Development Department

-----Original message-----

From: Stuermerk001 <stuermerk001@aol.com>
To: jcampbell@newportbeachca.gov, mcosylion@newportbeachca.gov, palford@newportbeachca.gov, jgarcia@newportbeachca.gov, gramirez@newportbeachca.gov, LDesantis@newportbeachca.gov
Sent: Wed, Mar 2, 2011 06:43:45 GMT+00:00
Subject: deny any expansion permits to Malarky's

Hello,

I've been a resident on 30th St. for over 10 years. I have wonderful neighbors who genuinely care about this city. Over the years, we put up with a lot of issues with drunk/intoxicated individuals due to the bars being around the corner. I do visit them myself, but are very respectful of my neighbors and don't come home late, loud or behave in inappropriate ways in front of the children on our street. Our street almost nightly already has issues with the patrons of these bars, being extremely loud at all our of the night and early morning. These patrons, are known to leave trash on our patios, vomit on our sidewalks, pass out on our patios and scream loud inappropriate profanities during all hours of the day. Also we already have difficulty parking from Memorial Day-Labor Day. Adding capacity to Malarky's Irish Pub would only escalate all of these issues. The honest citizens who love this city would like to keep it a nice place to live and raise a family. Please support your residents and deny any expansions of Malarky's Irish pub. The commission hearing is on 3/3/11 and as a long time resident, please help keep it nice for my neighbors and the other residents that surround this establishment.

Thank you for your time.
Katie Stuermer

Murillo, Jaime

From: STACY NIELSEN [stacynaz13@hotmail.com]
Sent: Tuesday, March 01, 2011 10:00 PM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Subject: Malarky's Petition to Expand

To Whom It May Concern:

Recently it has come to my attention that Malarky's Bar and Grill located at 3011 Newport Blvd. is requesting a use permit that would not only allow for an outdoor patio area but also more than double its occupancy. While I respect Malarky's as a staple of Newport Beach, I do not enjoy the bulk of patrons leaving the facility.

First, Malarky's is primarily a bar and I have seen too many individuals leaving who are extremely intoxicated. This level of intoxication leads to unacceptable levels of noise, unnecessary physical and verbal fights, individuals relieving themselves in alleyways and garages, an excessive level of inappropriate trash (bottles, cans, miscellaneous clothing items, left over/ uneaten pizza), and vomit. A beautiful new facility is being built just behind Malarky's complete with more restaurants and conveniences for vacationers and residents alike. I do not think that any of us want this new facility defaced by these late night antics.

Second, we are already having trouble with the late night noise at the Newport Beach Brewing Company (Brew Co.). Besides the noise of those leaving Malarky's increasing with an increased capacity, adding an outdoor patio to Malarky's directly accross the street will only raise this noise level exponentially all while the City of Newport Beach uses our tax dollars trying to control it.

In conclusion, while outdoor seating would be a nice addition to many restaurants in Newport Beach, Malarky's is not one of these locations. The noise that the patio will produce as well as increased number of drunk guests wondering the streets after hours will only further hurt the areas struggling housing market it will stifle the reputation for which Newport Beach strives. Malarky's should not be granted a permit to expand its facility.

Thank you for your time and concern in this matter. Should you have any further questions, please feel free to contact me at stacynaz13@hotmail.com.

Sincerely,

Stacy Nielsen Turek
220 1/2 30th St.

Murillo, Jaime

From: Linda Formuzis [lklein14@me.com]
Sent: Tuesday, March 01, 2011 3:38 PM
To: Murillo, Jaime
Subject: Malarky's expansion - NO NO NO!

Gentlemen ;

The absolute last thing the Peninsula zone needs is an expanded Malarky's!! We have a total over concentration of rehab clients roaming all over the place and now a bigger drinking bar? Just count the drinking bars we already have!!

The policing issues, parking issues and the hugely undesirable addition to a business that is already a negative in our community! Our quality of life is so compromised in this area already by bars and rehab business that have proliferated in this part of Newport Beach! All of this is counter productive to our efforts to remake the nearby Lido Village area into a quality tourist and visitor zone.

Allowing Malarky's to expand is *out of the question*. It's a no brainer.

Thanks for your support of me and my fellow property owners,
Linda Klein

Murillo, Jaime

From: Neal and Lamia Shehab [starmountain@roadrunner.com]
Sent: Tuesday, March 01, 2011 4:34 PM
To: Murillo, Jaime
Cc: emcdaniel@sunwestbank.com
Subject: Malarkeys

To Whom it May Concern,

Please do not approve the expansion of Malarkeys. The last thing we need on the peninsula is more drunks looking for parking. Unless they can increase their own parking this expansion does not make sense.

Thank you,

Neal Shehab

Murillo, Jaime

From: Sarah Zielsdorf Calvert [scalvert@xavor.com]
Sent: Tuesday, March 01, 2011 10:43 AM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Subject: Malarkey's expansion

Hello Jaime and Earl,

I'm writing to let you know that my husband and I oppose the expansion of Malarkey's. We live on 30th street with two young children and fear that an expansion would create additional problems and noise for the residents of this area.

Thank you for your time.

Best regards,

Sarah B. Z. Calvert
Director, Management Consulting
scalvert@xavor.com
949.231.9304

Murillo, Jaime

From: Dean Roberts [deanandann@verizon.net]
Sent: Tuesday, March 01, 2011 9:29 AM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Cc: pier2pier@yahoo.com; drew.wetherholt@marcusmillichap.com
Subject: Malarkey's Bar Expansion

We recently learned that the Planning Dept. has recommended that Malarky's has been given approval to significantly expand its operation. We find this incomprehensible that this will, in any way, improve the city and in significant way, lead to its detriment. Please reconsider this matter.

Dean & Ann Roberts,
313 Anade
Balboa, CA
Cell: (626) 221-2297
deanandann@verizon.net

Murillo, Jaime

From: Mary K. Drennan [jmkdren@gmail.com]
Sent: Monday, February 28, 2011 5:59 PM
To: Murillo, Jaime
Subject: Malarkey's Bar

Please deny expansion of Malarkey's Bar. The new owners have made great improvements seen from the outside and I commend them for their attractive exterior. However, allowing an additional 100 occupants will greatly impact parking in the area. This would be unfair to the existing businesses.

Thank you for your consideration.

Mary K. & Jim Drennan.

Murillo, Jaime

From: Bob Klar [theklars@yahoo.com]
Sent: Monday, February 28, 2011 8:11 PM
To: Murillo, Jaime
Subject: Malarky's Bar

I live at 413 East Edgewater, and I do not support the expansion of Malarky's Bar. There are enough bars in the area. Please no more bars.
Robert W. Klar

Murillo, Jaime

From: Marie Pierotti [pierottifamily@yahoo.com]
Sent: Monday, February 28, 2011 4:28 PM
To: emcdaniel@sunwestbank.com; Murillo, Jaime
Subject: Expansion of Malarky's Bar

Chairman McDaniel and Ms. Murillo -

We are writing to express our opposition to the potential expansion of Malarky's Bar. It is difficult to understand why the City would favor a major expansion of a drinking establishment on the Balboa Peninsula when there are already so many such places. The additional parking and traffic that will be generated as well as the noise and difficulties attendant to a bar like this are problems that the property owners should not be required to bear.

Thank you.

Tony and Marie Pierotti
314 Alvarado Place
Newport Beach, CA

Murillo, Jaime

From: Martin Carol [candwmartin@sbcglobal.net]
Sent: Monday, February 28, 2011 2:27 PM
To: Murillo, Jaime
Subject: Malarkey's expansion

As a resident of the central peninsula, I beg you to do all you can to deter the expansion of Malarky's, their addition of patio service, and increased signage. One of the good things about Malarky's has been their tasteful outside appearance and it would be sad for that to become a tacky sign center. Regarding expansion-NO!!! Currently we drive through that section of bars very cautiously hoping to prevent the car being hit by a drunk falling off the curb. More bar capacity equals more patrons at risk of impeding traffic in their unique ways. Just last weekend I screamed to a halt as a Cassidy's patron decided to follow two lovely ladies who had earlier crossed Newport Blvd. As these three stood arm in arm in the center of Newport Blvd. with all lanes of incoming traffic stopped, there could be no question that they had stayed in the bar too long. Current bar capacity is more than adequate.

Carol Martin
Newport resident

Murillo, Jaime

From: Rick Cunningham [rick@highlandroof.com]
Sent: Monday, February 28, 2011 1:55 PM
To: Murillo, Jaime; 'emcdaniel@sunwestbank.com'
Subject: Conditional Use Permit for Malarky's Bar Expansion - 3011 Newport Blvd

February 28, 2011

Jamie Murillo / Earl McDaniel
City of Newport Beach
Planning Commission
3300 Newport Boulevard
Newport Beach, CA 92663

RE: Conditional Use Permit for Malarky's Bar Expansion - 3011 Newport Blvd

Dear Sirs:

I was recently informed that the new owners of Malarky's Bar (3011 Newport Blvd) have applied to the Planning Commission for a Conditional Use Permit to expand the facility and add an outdoor patio. I further understand that this expansion would increase their occupancy by about double the current number.

I can't tell you how upsetting this is to me as a local resident living on Marcus Avenue in Newport Beach since 2003. I have already suffered through the aftermath of the expansion of Rudy's bar where we were assured by the ownership and the Commission that there would be "no real impact" on the local residents... this has proven to be a complete farce. I have personally called the Newport Beach Police Department over ten times since that expansion to have them come break up fights, pick up patrons that were passed out in the bushes in front of my house, and to report drunken vandalism to my Marcus Avenue property. Further, I have been awakened by drunks making their way into my back yard, urinating on my bedroom window, yelling and screaming as they make their way home, and my car was severely damaged by a shopping carts being used for go-cart racing at 1:30am.

I realized that when I bought my house in the beach area that parking would be tough, but I did not plan on having Rudy's employees taking up all the street parking between 32nd and 35th streets. It is hard enough to find a spot now with Rudy's "plaid-clad bar girls" and patrons parking on our streets, with the additional draw of the new Crow Bar in the soon to be completed Pavilion's center and another 100 people nightly at Malarky's, there will never be a spare space for residents or their friends in our neighborhood.

We are living with one Planning Commission mistake already. I implore you not to make another by allowing the Malarky's expansion that will deposit yet more cars, drunks and disorderly patrons onto the surrounding streets.

The neighborhood just west of Malarky's used to be comprised mostly of low dollar rental units with absentee owners but over the last decade more and more people have purchased duplexes and converted them to single family dwellings to live in with their young families. With the increase of owner occupied "family" dwellings the need and tolerance for expanded drinking establishments has exceeded the limit. Our neighborhood has changed into a nice place for families to live and for kids to play. Please don't bring back the seedy element that our neighborhood has tried so hard to clean up by adding capacity for yet another drinking establishment.

Please help us keep our neighborhood safe and family oriented.

Respectfully yours,

Rick Cunningham

President

Highland Commercial Roofing

626-856-2076 Office

310-388-1740 Fax

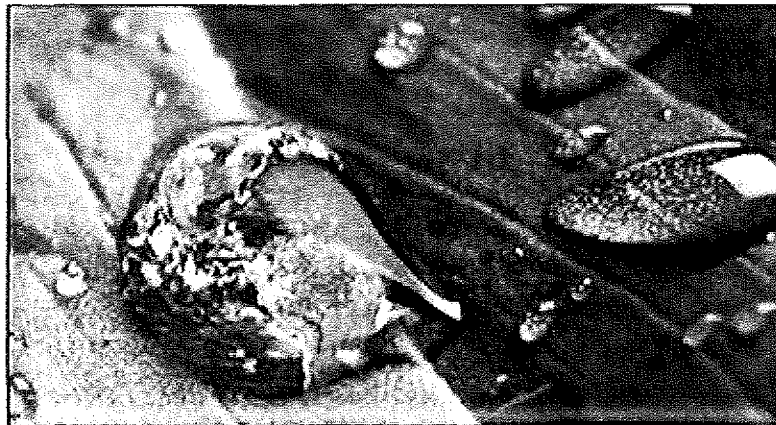
5105 Heintz Street

Baldwin Park, CA 91706



SOUTHERN CALIFORNIA – ARIZONA – NORTHERN CALIFORNIA

High-Performance Commercial Roofing Solutions Since 1991
Specialists in Sustainable Seamless "Cool-Roof" Systems



"Cool before it was Green... Green before it was Cool!"

Murillo, Jaime

From: Mike Deschenes [miked@rampageproducts.net]
Sent: Thursday, February 24, 2011 3:24 PM
To: Murillo, Jaime
Subject: Malarkys Expansion request

Jamie Murillo
Planning Department, Newport Beach, CA

Dear Jamie,

I am aware of a proposed expansion petition on behalf of Malarky's and subsequent planning commission hearing scheduled for March 3rd. As I have business obligations that has me out of town, I am unable to attend and share my thoughts as a homeowner, concerned citizen and Newport Beach Tax payer – so I'm asking you to consider my thoughts in your position on this matter.

What in God's name could be the upside to our community? I have a family and we often walk past some of the inebriated, non-resident, guests who frequent the area – at times they are merely disgusting, often they are rude or indecent and disruptive to my simply walking the streets in my own neighborhood –rarely are they polite or sensitive to the appearance or safety of our community. Could you, or anyone on the planning commission, actually believe that we have a shortage of drinking or eating establishments in the area?

This specific establishment has operated in the same location for quite some time - now all of sudden we have an ownership change and for some reason the new owner is looking to our community to enhance his investment – vote no on this petition.... maybe Mario should consider building another bar in his own back yard!!!

Regards,

Mike Deschenes
Resident of 36th Street

Murillo, Jaime

From: lennymark@roadrunner.com
Sent: Sunday, February 27, 2011 10:42 AM
To: Murillo, Jaime
Subject: Malarky's

Please do not let Malarky's increase the size of their location. We have more than enough area in this city for people to drink. We do not need more people coming to the peninsula to get drunk.

Thank you for your consideration.

--

Leonard Applebaum
Newport Beach, CA

Murillo, Jaime

From: Pat Klingensmith [patklingensmith@yahoo.com]
Sent: Sunday, February 27, 2011 10:43 AM
To: Murillo, Jaime
Subject: Malark'ys Bar

We wish to go on record as being against the enlargement of Malarky's Bar. There are too many bars in that area now and the resulting problems caused by excessive drinking are very prevelant in that area.

Murillo, Jaime

From: Tom O'Loughlin [BalboaTom@att.net]
Sent: Sunday, February 27, 2011 12:32 PM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Subject: MALARKYS Newport Beach Project File No:PA2010-172

Importance: High

We strongly disapprove of permitting the bar to expand. It is already a very dangerous area with intoxicated patrons crossing the streets there to roam from one bar to another. It just does not make any sense whatsoever!

Tom O'Loughlin
Balboa Peninsula
949-374-2171

Murillo, Jaime

From: Irwin Goldring [idgoldring@gmail.com]
Sent: Sunday, February 27, 2011 1:23 PM
To: Murillo, Jaime
Subject: Malarky's Expansion

Please deny the request to expand Malarky's. I am a homeowner on Lindo. Thank you.

Murillo, Jaime

From: Kris and Marcus [lidowilson@aim.com]
Sent: Sunday, February 27, 2011 2:06 PM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Subject: Malarky's bar (3011 Newport Blvd.)

Planning Department,

Please do not approve any expansion of Malarky's bar (3011 Newport Blvd.)

There are too many bars and drunks and not enough parking. The city should be planning projects that improve the neighborhood and not expanding businesses that destroy it.

Thank you,

Marcus & Kristin Wilson

Murillo, Jaime

From: phocken@cox.net
Sent: Sunday, February 27, 2011 2:07 PM
To: Murillo, Jaime
Cc: emcdaniel@sunwestbank.com
Subject: Expansion of Malarky's Bar

We have just read with some amazement that the Planning Commission is actually recommending the expansion of Malarky's. If there is one thing that the Lido Isle and Peninsula residents do NOT need is another bar and more associated drinking problems such as drunk drivers, broken bottles, and rather nasty litter, let alone the noise factor of a patio bar. Please do not allow our wonderful Newport/Balboa area to invite further problems for us and the police.

Paula and Roger Hocken
205 E. Bay Ave., Balboa
phocken@cox.net

Murillo, Jaime

From: Joseph R. Stack [joe@stackcpa.com]
Sent: Sunday, February 27, 2011 2:31 PM
To: Murillo, Jaime
Cc: emcdaniel@sunwestbank.com
Subject: opposed to Malarky's expansion

Gentlemen,

I am strongly opposed to Malarky's proposed expansion. I have lived and worked on the peninsula for over 20 years within a few blocks of Malarky's. As a younger man, I spent my share of time inside Malarky's as well as every other bar on the peninsula, so I am not opposed to drinking or drinking establishments in general. However, I remain strongly opposed to any expansion, or establishment of new drinking facilities. ***We have more than enough we don't need more!*** I am also particularly opposed to any outdoor/patio expansion due to the increase in late night noise which is already at unacceptable levels in the area.

I urge you to deny the request for conditional use permit.

Thank you,

Joe Stack

Joseph R. Stack, CPA, MST

Residence: 3310 Marcus Ave

Stack & Jagiello, LLP
430 32nd Street, Suite 100
Newport Beach, CA 92663
tel 949.723.1829.x315
fax 949.723.6129
www.sjcpas.com

Murillo, Jaime

From: Kevin Finn [kevinfinn@sbcglobal.net]
Sent: Sunday, February 27, 2011 2:57 PM
To: Murillo, Jaime
Subject: Marlarky's request for expansion

I AM REQUESTING THAT THE PLANNING COMMISSION FULLY DENY MARLARKY'S APPLICATION FOR EXPANSION. THE PENINSULA IS ALREADY OVER CROWDED WITH BARS THAT BRING MANY ASSOCIATED BURDENS TO THE RESIDENTS AND POLICE WHO LIVE AND WORK HERE.

KEVIN FINN

Murillo, Jaime

From: Larry Mathena [mathenaesq@aol.com]
Sent: Sunday, February 27, 2011 3:11 PM
To: emcdaniel@sunwestbank.com; Murillo, Jaime
Subject: PA2010-172 Reject it

Malarky's bar (3011 Newport Blvd.) on the Newport Beach peninsula is requesting a conditional use permit to significantly expand the capacity of the bar and add a 782 square foot outdoor patio. This expansion would over double the occupancy from approximately 91 people to over 200 people. We do NOT need to see an additional 100+ intoxicated individuals roaming our neighborhoods. The application also requests to allow more than 3 signs on a single-tenant building. (City of Newport Beach Project File No: PA2010-172)

WE DO NOT WISH TO SEE MALARKYS EXPAND AS THIS WILL ONLY HAVE A NEGATIVE IMPACT TO OUR COMMUNITY. MALARKYS APPLICATION SHOULD BE DENIED FOR THE FOLLOWING REASONS:

- The peninsula area (District 15) already has an over-concentration of ABC establishments. According the Alcohol Beverage Control and Newport Beach Police, this small area has in excess of 78 ABC licenses. The most ABC licenses not only in the city but in all of Orange County!
- According to the Newport Beach Police, there is 1 ABC license per every 38 residents in District 15! This is extremely excessive and illustrates that there is NO NEED to increase drinking establishments in this area.
- Reporting District 15 has the highest crime rate in the city by far. According to the Newport Beach Police Department, this reporting district (RD) had a total of 946 reported crimes as compared to a city-wide reporting district average of 162 reported crimes (483.95% above the city-wide RD average). These statistics would tend to indicate that there is a strong correlation between the over-concentration of ABC establishments and police related activity. It should also be noted that the majority of these calls for service occurred between the hours of 6PM and 2AM. Not a very productive use of City, Police or taxpayers resources/money.
- The Newport Beach Police Department has also recommended AGAINST the Malarky's expansion to the Planning Department.
- The new owner was advised by the old owner that the surrounding community is against ANY expansion of the existing bar. He KNEW what he was buying and bought it anyway. Also the property does NOT need to have more than 3 signs when the rest of the surrounding businesses do not. This would be tacky and create an additional eyesore.
- The area does NOT need an additional 100+ intoxicated individuals roaming our neighborhoods at 2AM with the related problems of yelling/screaming, puking, public urination, sex, vandalism, fights, property damage, and drunk-driving etc. Residents are constantly being disturbed, woken-up and having to deal with these alcohol related problems. Intoxicated individuals have even tried breaking into nearby homes.

- PUKE, PUKE and MORE PUKE! Often residents get to start their weekends cleaning-up puke, broken bottles, and even condoms on the streets, sidewalks and even their front porches. Bras and panties are also found.
- Intoxicated people are constantly running across Newport Blvd and going against the traffic lights especially during the hours of 11PM-2AM. Individuals have nearly been hit by cars and traffic gets obstructed. Cabs often double-parked and create cab lines that also obstruct traffic.
- City staff has also indicated that Malarkey's will need to request a parking waiver to meet the proposed occupancy expansion. This is not acceptable as the area is already significantly under-parked and this provides no benefit to the community.
- Malarkey's is NOT a restaurant; it is a BAR! Malarkey's hosts events such as the Zombie Pub Crawl featuring cheap drink specials.
- The patios of Rudy's bar and the Newport Beach Brewing Company are already too noisy with the related yelling and screaming both during the day and the evening. There is no need to add a patio to Malarkey's bar as this will only contribute more noise and problems to the area. There is no logical place to put a patio area on the Malarkey's property. All possible locations will have a negative impact on the surrounding community because the excessive sound from the patio will carry throughout the neighborhood. The proposed location is like an enclosed alley and the sound will only echo throughout the area.
- The peninsula has the highest incidents of DUIs and drunk-driving. PUBLIC SAFETY is a real concern.

Deny this application.

Larry Mathena

Murillo, Jaime

From: Rick & Shelley Clewett [rrclewett@sbcglobal.net]
Sent: Sunday, February 27, 2011 4:08 PM
To: Murillo, Jaime
Subject: Malarkys Expansion request

Jamie Murillo
Planning Department, Newport Beach, Ca.

Dear Jamie,

I understand there is a proposed expansion petition on behalf of a bar called Malarkys scheduled for March 3rd. As a concerned citizen and a Newport Beach Tax payer, I will definitely be attending the hearing. I want to see for myself if anyone on the Planning Commission has any common sense. Don't we already have enough bars in the area of 30th street, you can't stumble out of one without going into another. For Malarkys to try to expand their bar with the sole purpose of getting more people drunk is absurd. For the Planning Commission's information, there are a lot of us residents that would like to see Newport Beach become more family oriented. Please vote "no" on Malarky's petition to expand their bar area.

Thank you for your consideration,

Rick and Shelley Clewett
Resident of 36th Street

Murillo, Jaime

From: JUSTINE HURRY [justinehurry@yahoo.com]
Sent: Monday, February 28, 2011 2:17 AM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Subject: Malarky's Bar

I DO NOT support the expansion of Malarkey's bar! We bought a place and business down there so we and our 4 kids could enjoy it. There are so many issues with noise, drinking people and bar fights where we are now its terrible. Please do not let them add on! Thanks Justine Hurry

Murillo, Jaime

From: Glenell Parker [glenellp@msn.com]
Sent: Monday, February 28, 2011 8:20 AM
To: Murillo, Jaime
Subject: MSN.com

I am the owner of 1221 West Balboa and 1219 West Balboa properties. As a 40 year resident, I want to say I do NOT support the expansion of Malarkys bar. There are too many bars already in Neewport Beach. I have experienced many DUI accidents in front of my property abd do not park on Balboa Blvd. overnight in order to protect my car.

I also do not support a parking varience or or the sign policy for Malarkys.

Frankk J. Bruder
760/325-4091

Murillo, Jaime

From: Sonja Kramer [sonjak20@gmail.com]
Sent: Thursday, March 03, 2011 4:23 PM
To: Murillo, Jaime; emcdaniel@sunwestbank.com
Subject: Stopping Malarky's Bar from expanding

To whom it may concern:

My husband, two children, and myself love living in Newport Beach on 30th street, the same street that Malarky's bar is on. We are not in favor of the outdoor patio and of the expansion of the bar for many reasons. Please take the time to consider the residents who have spent millions of dollars on their home before you make this critical decision. Thank you for your time.

Sonja Burns
949-769-4312

Burns, Marlene

From: Murillo, Jaime
Sent: Friday, March 04, 2011 9:15 AM
To: Burns, Marlene
Subject: FW: Malarky's Bar Expansion Application

I received this one late last night.

From: marlyne diamond [mailto:marlyned@live.com]
Sent: Thursday, March 03, 2011 7:38 PM
To: 'Lori Morris'; 'Earl McDaniel'; 'Susan/Barry Eaton'; 'Michael Toerge'; ameri@rbf.com; 'Robert Hawkins'; cwunsworth@cox.net; bhillgren@highrhodes.com
Cc: Kiff, Dave; Rosansky, Steven; Selich, Edward; 'Mike Henn'; Hill, Rush; Gardner, Nancy; Curry, Keith; Daigle, Leslie; Brown, Leilani; Murillo, Jaime
Subject: RE: Malarky's Bar Expansion Application

I agree with Cindy Kohller and Lori Morris. Please don't approve of the expansion of Malarky's Bar.
Marlyne Diamond

From: Lori Morris [mailto:lorimorris@gmail.com]
Sent: Thursday, March 03, 2011 3:29 PM
To: Earl McDaniel; Susan/Barry Eaton; Michael Toerge; ameri@rbf.com; Robert Hawkins; cwunsworth@cox.net; bhillgren@highrhodes.com
Cc: Dave 'Kiff'; parahdigm@aol.com; Ed Selich; Mike Henn; rush hill; Nancy Gardner; curryk@pfm.com; lesliejdaigle@aol.com; lbrown@city.newport-beach.ca.us; jmurillo@newportbeachca.gov
Subject: Malarky's Bar Expansion Application

March 3, 2011
Please enter into the public record

City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663

Attention: Planning Commission
City Clerk
City Council
Jaime Murillo

Reference: Malarky's Application up 2010-039

Planning Commission, City Council and Staff:

I would like to echo Cindy Koller's request to deny the Malarky's Bar expansion application.

As a resident of the Peninsula I am appalled that the staff report submitted does not go into greater detail regarding the impacts to residents this expansion would most certainly impose.

The Peninsula zone has a far greater burden than any where else in the City of Newport Beach in regard to alcohol establishments.

As we have been involved with the (hopefully) better use of the old City Hall site...it would seem at this point the city staff would look at the entire impact of adding even more space for drinking alcohol in such close proximity to the future use of that site.

Residents of the Peninsula should not continue to bear the burden of even ONE MORE bar or expansion and we would expect our city leaders to be looking for ways to mitigate the problems we have now with over crowded bars, not enough parking and the general crime that goes along with that.

Our City Council just voted to give our Police Chief and his Dept. more latitude in dealing with the problem we now have with alcohol establishments...yet City staff seems to be ignoring the letters of request to deny this application written by our very own Police Dept. detectives. I find that troubling and of great concern.

As was reported, we had a death recently in our city directly attributed to the intoxication and drowning of a young man who had frequented the very same bars in and around the area in question. I do not wish to use his horrible death to remind our city employees of the dangers that come with being complacent in regards to too many bars in such a dense area and close proximity to a LARGE body of water but it cannot be ignored.

PLEASE...residents are looking to you to help end the over saturation of bars and drinking establishments in the Peninsula zone.

I am asking you to deny this request and in the future please be mindful of the already established burden that the Peninsula resident must endure.

Thank You,

Lori Morris
West Newport

Burns, Marlene

From: Murillo, Jaime
Sent: Wednesday, March 09, 2011 10:06 AM
To: Burns, Marlene
Subject: FW: stop malarkys

From: Dan Ralsky [mailto:tboneoct@roadrunner.com]
Sent: Friday, March 04, 2011 8:24 PM
To: Murillo, Jaime
Subject: stop malarkys

stop malarkys

Burns, Marlene

From: Murillo, Jaime
Sent: Wednesday, March 09, 2011 10:06 AM
To: Burns, Marlene
Subject: FW: Marlarky's

From: Helen McCleary [mailto:helenmccleary@att.net]
Sent: Saturday, March 05, 2011 10:49 AM
To: Murillo, Jaime
Subject: Marlarky's

To Jaime Murillo, Associate Planner,

I do not wish to see Malarky's Expand, as this will only have a negative impact to our community. Malarky's application should be denied.

There are enough "Bar's" in the Newport Beach area as it is.

I do not like being disturbed at early hours of the morning with people yelling, arguing, and getting sick on my property!! I have to do the cleaning up and I do not appreciate it.

Drunk drivers have been known to have accidents along Balboa Blvd. and cars have been damaged. There doesn't need to be another bar in Newport Beach.

Thank you,

Helen McCleary

Correspondence
Item No. 5c
Malarky's Irish Pub
PA2010-172

Additional Information Received From Police Department and the Applicant

**City of Newport Beach
Police Department**

M e m o r a n d u m

March 2, 2011

TO: Jaime Murillo, Associate Planner

FROM: Detective Bryan Moore

SUBJECT: Malarky's Irish Pub, 3011 Newport Boulevard, Use Permit No. 2010-039, (PA2010-172).

The purpose of this memo is to provide additional information to the Planning Department regarding the project application for *Malarky's Irish Pub*, located at 3011 Newport Boulevard, Newport Beach.

It is important to note that Malarky's Irish Pub is a unique location for several reasons: (1) it is located on a busy boulevard in close proximity to residential neighborhoods (2) it is located in reporting district 15 which is the most concentrated area for retail alcohol establishments in the Newport Beach, (3) It has been, and will continue to be, a late night drinking establishment that operates at or near full capacity on the weekends, and (4) it is in close proximity to other late night drinking establishments such as Rudy's and Newport Brewing Company.

The Police Department's primary concern with the interior expansion of Malarky's is the significant increase in occupancy (75 interior, 49 patio) should this application be approved. The applicant may have the best intentions, however, the Police Department knows from experience that when Malarky's closes at 2 a.m., numerous intoxicated individuals leave and create subsequent problems for police and neighborhood residents alike. This is in addition to the patrons that are already leaving neighboring bars such as Rudy's and Newport Brewing Company. It is our belief that an increase in occupancy, for Malarky's, will have additional negative impacts on the surrounding neighborhood and will be a further drain on police services.

It should also be noted that while the Operator's License may be an effective tool in many situations, we do not believe it can properly manage the effects of a significant increase in occupancy. Even if the applicant followed all of the conditions of the license, it would not properly address the influx of patrons onto a busy boulevard and ultimately into the neighboring residential areas.

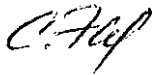
Malarky's
UP No. 2010-039

The Police Department continues to recommend against the proposed interior expansion based on the prediction that it will result in an increase in police related activities and calls for police services. The resources required to address these events would detract from our ability to provide police services to the other areas of the Community

If you have any questions, please contact me at (949) 644-3725.

A handwritten signature in black ink, appearing to read "B. Moore", with a large, stylized initial "B" and a horizontal line extending to the right.

Detective Bryan Moore
ABC Liaison/Vice/Intelligence

A handwritten signature in black ink, appearing to read "C. Fox", with a stylized "C" and "F" and a horizontal line extending to the right.

Craig Fox, Captain
Detective Division Commander

Murillo, Jaime

From: Murillo, Jaime
Sent: Thursday, March 03, 2011 9:03 AM
To: 'Barry Eaton'; 'Brad Hillgren'; 'Mike Toerge'; 'Robert C. Hawkins'; 'Charles Unsworth'; 'Fred Ameri'; 'Earl McDaniel'
Cc: Alford, Patrick; Campbell, James; Burns, Mariene
Subject: FW: Updated Letter of clarification

Good Morning Commissioner's,
The applicant has requested that I forward the email below for your consideration.
Thanks,
Jaime

From: Mario Marovic [mailto:mario@loungegroup.com]
Sent: Thursday, March 03, 2011 8:56 AM
To: Murillo, Jaime
Subject: FW: Updated Letter of clarification

For Planning Commission's consideration:

I just wanted to correct some inaccurate information that has been distributed.

There is a great deal of information circulating regarding the Malarkys application scheduled to be heard before the planning commission this Thursday, March 3rd. I have concerns about the validity of the information that is being distributed., specifically by Mr. Drew Wetherholt. I would like to clear up the misinformation and false statements made by Mr. Wetherholt, which is the purpose of writing you this letter. Below I have listed the facts:

- Drew Wetherholt circulated an email blast stating that we are seeking a parking waiver. We are not seeking a parking waiver. In actuality, we have a surplus of four parking spaces after 11:00 p.m. In addition to the email blasts, I have had neighbors approach me with written flyers that were left at their homes. These flyers were composed by Mr. Wetherholt, who again reiterated that part of the Malarkys application includes a request for a parking waiver. (I can present this if needed)
- Since Mr. Mario Marovic acquired Landmark Steakhouse nearly seven years ago the only citation he have received is one occupancy issue on July 3, 2010 that is being resolved through the addition of a rear door and reconfiguration of the restrooms. Once the improvements are completed, the citation will be dismissed.
- Mr. Wetherholt has claimed that there have been fights and other disturbances at Malarkys. Not only did they not occur, but the police have no record of any of these disturbances. Mr. Wetherholt has made reference to issues pertaining specifically to last Saturday, February 26th. There was NOT any physical altercation of any kind. I researched this with my staff and with the Newport Beach Police Department. I informed Mr. Wetherholt of this fact before he made that claim in writing.
- I met with Newport Beach Police Department this morning and reviewed the report from the hit and run last Saturday Night, (Case# 11-1694). The driver WAS NOT a Malarkys customer! The driver came from another establishment and never stepped foot in our location.

- Mr. Wetherholt insinuated in writing that a person involved in an attempted breaking and entering was somehow associated with the Malarkys establishment. I met with Mr. Wetherholt's neighbor who stated that there was no definitive association with Malarkys. Simply, that Mr. Wetherholt believes that this individual came from the general direction of Malarkys. Any individual walking north to south from Newport Boulevard must walk by Malarkys and our parking lot.

Here is the real issue:

- The Police Department supports the outdoor patio, but want it closed at 10:00pm. Mr. Marovic would like the dining patio to remain open until 11:00pm. The average dining experience is approximately two hours, depending on the size of the party. Larger parties may last longer and smaller parties may be slightly shorter. Therefore, by closing the patio at 11pm Malarky's will be able to accommodate 8:30pm and 9pm dining reservations without having to "rush" customers off of the patio and diminish their dining experience. Since this is a dining patio, taking a 9pm reservation and allowing a customer two full hours to eat appetizers, entrée and dessert should be a reasonable request.
- The 560 square foot interior expansion (size of a large two car garage) is for three dining booths, wrap around seating bench, tables/chairs and a serving station. It seems that the opposition is making more out of the application than is necessary.
- The point of the remodel/expansion is to improve the dining experience and attract a higher level of clientele.
- Mario has invested hundreds of thousands of dollars in both exterior and interior improvements. The adjacent weed lot was constructed into an attractive, landscaped parking lot. The exterior of the building was painted and fitted with custom planter boxes and crown molding. Furthermore, our application involves an additional investment of over two hundred thousand dollars (\$200,000) for ADA restrooms, a grease interceptor, fire sprinklers, and new water and sewer lines.
- Hundreds of peninsula homeowners have already come into the restaurant to eat and thank us for the improvements. I believe the requested improvements are modest and reasonable in light of the major investment and beautification of the building and property.

REVISED

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. UP2010-013 AND COMPREHENSIVE SIGN PROGRAM NO. CS2011-002 AUTHORIZING THE ADDITION OF OUTDOOR DINING AND SIGNAGE IMPROVEMENTS FOR AN EATING AND DRINKING ESTABLISHMENT LOCATED AT 3011 NEWPORT BOULEVARD AND DENYING THE REQUEST FOR THE INTERIOR DINING ROOM EXPANSION (PA2010-172)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Malarky's Irish Pub Inc., with respect to property located at 3011 Newport Boulevard, Assessor Parcel Number's 047-060-01, 047-060-06, and 047-060-10, requesting approval of a conditional use permit and a comprehensive sign program.
2. The applicant filed an application for a conditional use permit request to expand an existing eating and drinking establishment and to allow for the use of off-site parking. The expansion includes remodeling the interior of the facility to create approximately 565 square feet of new dining area and the construction of an approximately 782-square-foot outdoor dining patio. The application also includes a request for a comprehensive sign program to allow more than three signs on a single-tenant building.
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Neighborhood Commercial (CN).
5. A public hearing was held on March 3, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).

2. This exemption authorizes additions to existing structures of up to 10,000 square feet. The proposed project consists of a 565-square-foot interior dining room expansion and the construction of a new 782-square-foot outdoor dining patio, and therefore, qualifies under this exemption.

SECTION 3. REQUIRED FINDINGS.

1. Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever 3 or more signs are proposed for a single-tenant development. In accordance with Section 20.67.120.E, a Comprehensive Sign Program shall comply with a number of standards. The following standards and facts in support of such standards are set forth:

Standard:

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42: Signs], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

Facts in Support of Standard:

- A-1. In compliance with the purpose and intent of the Sign Code, the proposed Sign Program provides the use with adequate identification without excessive proliferation of signage. Furthermore, it preserves community appearance by regulating the type, number, and design of signage.

Standard:

- B. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

- B-1. The site is for use of a single tenant only, and the signage has been designed integral with the design and character of the building.
- B-2. The applicant is proposing to renovate the exterior appearance of the building in the architectural theme of a traditional Irish pub.
- B-3. The existing tower element divides the primary frontage of the building requiring signage to be broken up into three separate wall signs. The remaining awning signs and projecting sign are minor and incidental to the primary wall signs. The north and south elevations and considered secondary frontages and consist of only one wall sign and two incidental awning signs.

Standard:

C. The sign program shall address all signs, including permanent, temporary, and exempt signs.

Facts in Support of Standard:

C-1. The Sign Program submitted for the project addresses all project signage. Temporary and exempt signs not specifically addressed in the Program shall be regulated by the provisions of Chapter 20.42.

Standard:

D. The sign program shall accommodate future revisions that may be required because of changes in use or tenants.

Facts in Support of Standard:

D-1. The project site is for the sole use of Malarky's Irish Pub and has been designed to be effective for such a use.

D-2. It is not anticipated that future revisions will be necessary to accommodate constant changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed plans.

D-3. Consistent with Chapter 20.42, the Planning Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Standard:

E. The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.

Facts in Support of Standard:

E-1. The Sign Program requests deviation in number of signs and location.

E-2. The sign code normally allows one wall sign up to 75 square feet in area on the primary frontage; however, due to the existing tower element on the building that divides the front facade, one large wall sign cannot be achieved.

- E-3. Breaking up the signage into three separate smaller wall signs allows for a more aesthetically pleasing orientation of signage and achieves the applicant's design theme of a traditional Irish pub.
- E-4. The projecting sign and awning signs are minor and incidental the main wall signage. Also, given the orientation of the building, staff believes the deviations in the wall signs separation and centering are merited to allow the applicant more effective sign placement.
- E-5. Allowing the signs on the on the secondary frontages to be located towards the front corner of the building allows for increased sign visibility for motorists driving along Newport Boulevard.

Standard:

F. The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter.

Facts in Support of Standard:

- F-1. The program does not authorize the use of prohibited signs.

Standard:

G. Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.

Facts in Support of Standard:

- G-1. The program contains no regulations affecting sign message or content.

- 2. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site requires the approval of a conditional use permit. In addition to the standard conditional use permit findings, approval of off-site parking is subject to specific findings. The following findings and facts in support of such findings are set forth:

Finding:

A. The parking facility is located within a convenient distance to the use it is intended to serve.

Facts in Support of Finding:

- A-1. The proposed off-site parking lot is located immediately adjacent to the subject property.

A-2. The proposed off-site parking lot has been designed as an extension of the existing parking lot for the establishment.

Finding:

B. On-street parking is not being counted towards meeting parking requirements.

Facts in Support of Finding:

B-1. The required 47 44 parking spaces are provided entirely within the parking lot.

Finding:

C. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.

Facts in Support of Finding:

C-1. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area.

C-2. The northerly driveway will be modified for one-way ingress and the southerly driveway will provided for both ingress and egress circulation.

Finding:

D. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.

Facts in Support of Finding:

D-1. The applicant has entered into a 10-year lease, with an option to renew for an additional 5 years, for use of the three parcels and 20-foot-wide easement.

D-2. The William J. Cagney Trust owns the subject building and associated off-site parking lots, and has entered into a long-term lease with the applicant; therefore, the parking facility will remain available, marked, and maintained for the use of the subject establishment.

D-3. As a condition of approval, the required 47 44 spaces are to be permanently provided on-site or within the adjoining off-site lots.

3. Pursuant to Section 20.20.020 of the Zoning Code, eating and drinking establishments classified as *Food Service, Late Hours*, require the approval of a conditional use permit within the Commercial Neighborhood Zoning District. **The proposed project consists**

of a 565-square-foot interior expansion and addition of a 782-square-foot outdoor dining patio. In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth **in support of the 782-square-foot outdoor dining patio:**

Finding:

A. The use is consistent with the General Plan and any applicable Specific Plan.

Facts in Support of Finding:

- A-1. The operation of a Food Service, Late Hours use, with alcoholic beverages, is consistent with the purpose and intent of the Neighborhood Commercial (CN) land use designation of the General Plan.
- A-2. The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented primarily to serve the needs and maintain compatibility with the residential uses in the area. Food Service uses **with outdoor dining patios** can be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.

Finding:

B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding:

- B-1. Eating and drinking establishments classified as *Food Service, Late Hours*, require the approval of a conditional use permit within the CN district.
- B-2. As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments and solid waste storage, including the installation of a grease interceptor.
- B-3. Pursuant to Chapter 5.25, the project has been conditioned requiring the operator of the establishment to secure an Operator License from the Police Department to maintain operating hours beyond 11:00 p.m.
- B-4. The applicant will be required to enter into a parking agreement for the use of off-site parking, which guarantees the long term availability of the parking facilities and shall be recorded with the County Recorder's Office.

Finding:

C. The design, location, size, operating characteristics of the use are compatible with the allowed uses in the vicinity.

Facts in Support of Finding:

- C-1. The project has been reviewed and conditioned to ensure that potential conflicts with the surrounding land uses are minimized to the extent possible to maintain a healthy environment for both residents and businesses.
- C-2. **A surplus of Adequate** parking will be provided for the proposed operation at all times of the day. ~~with a surplus of parking provided during late hours.~~
- C-3. No live entertainment or dancing is proposed; however, amplified music through the use of a jukebox will be used. A condition of approval has been included requiring the exterior doors and windows to be maintained in the closed position at all times, except for the ingress and egress of patrons.
- C-4. Significant noise impacts from the proposed outdoor dining patio are not anticipated given its location on the north side of the building, its distance of approximately 300 feet from the nearest residential dwelling, and the shielding by the existing shopping center building. The outdoor dining patio is also surrounded by a 9-foot-8-inch-high glass barrier that should help attenuate sound and will be completely closed by 11:00 p.m.
- C-5. No new expansion of interior net public area is approved, thereby limiting late hour operations.**
- C-6. No new lighting is proposed with the exception of illumination for the new signage and the outdoor patio. Existing exterior lighting exists only to illuminate the parking lot.
- C-7. The trash enclosure is not currently provided on-site; however, the applicant is proposing to construct a new enclosure in the northwest corner of the parking lot. The design and area of the enclosure is proposed to comply with the design requirements of the Zoning Code.

Finding:

D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding:

- D-1. The Traffic Engineer and Fire Department have reviewed the configuration of the new parking lot extension and proposed changes to the existing parking lot,

and have determined that the parking lot design will function safely and will not prevent emergency vehicle access to the establishment.

- D-2. The applicant is proposing to install ~~fire sprinklers and~~ a grease interceptor for the establishment.
- D-3. The site is currently served by public services and utilities.
- D-4. The area of the site, including the off-site parking lots, is approximately 22,680 square feet and adequate in size to accommodate the subject establishment and all required parking.
- D-5. **The addition of outdoor dining, with limited hours, to the existing establishment will enhance food service opportunities.** The site is located at the northwest corner of Newport Boulevard and 30th Street, with the building fronting onto Newport Boulevard. This is an appropriate location for an eating and drinking establishment and **is limiting the establishment's expansion during late hours will ensure the use does not become incompatible compatible** with other commercial uses fronting Newport Boulevard.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

- E-1. The nearest residential uses are located to the west on 30th Street, across from the loading dock of the adjacent shopping center. The nearest dwelling is located approximately 130 feet from the closest extent of the new parking lot boundaries and approximately 220 feet from the building itself. The adjacent shopping center building and an 8-foot-high block wall provides a screening and noise buffer from the project site. The applicant has also planted a row of bamboo trees along the block wall to help visually screen the establishment.
- E-2. The parking lots improvements and proposed facade improvements will have a positive impact on the overall aesthetics and economic health of the community, and may promote further revitalization of the other commercial properties located along Newport Boulevard.
- E-3. No new expansion of interior net public area is approved, thereby limiting late hour operations.**
- E-4. **Increased pedestrian and vehicular activity is expected during late and early morning hours as a result of the increased occupancy; however** The applicant

will be required to obtain an Operator License from the Police Department. The Operator License will provide for enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain of late-hour operations if objectionable conditions occur.

4. The findings required by Section 20.52.020.F of the Newport Beach Municipal Code to approve the 565-square-foot interior dining room expansion cannot be made for the following reasons:

A. The establishment is located adjacent to a major street and in close proximity to two other eating and drinking establishments with late hour operations. When the three establishments close at similar times in the late hours, cumulative negative impacts to the surrounding neighborhood occur through the large influx of patrons leaving these establishments. These impacts include large numbers of patrons illegally crossing Newport Boulevard and stopping traffic, taxi cabs blocking traffic on Newport Boulevard, patrons loitering in the streets and sidewalks on Newport Boulevard and within the neighboring residential areas.

B. The proposed interior expansion will increase the occupancy of the establishment by approximately 55 percent, resulting in increased numbers of patrons contributing to the existing late hour disturbances that occur in this area.

C. Memorandums provided by the Police Department project that the increased occupancy during late hours will result in increased police related activities and calls for services. The resources required to address these events would detract from the Police Departments ability to provide police services to other areas of the community.

D. Even with the requirement to secure an operator license pursuant to Chapter 5.25 of the Municipal Code, many of these negative impacts cannot be prevented as they are outside the control of operator and the on-site operations and management of the establishment. The increased occupancy at this location will exacerbate the existing late hour disturbances that cumulatively occur in this area due to the close proximity of other eating and drinking establishments with late hour operations.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2010-039 and Comprehensive Sign Program NO. CS2011-002

authorizing the addition of the outdoor dining patio and signage improvements, subject to the conditions set forth in Exhibit A and the Sign Program Matrix included in Exhibit B, which is attached hereto and incorporated by reference.

2. The Planning Commission of the City of Newport Beach hereby denies the 565-square-foot interior dining room expansion request.

3. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
4. This resolution supersedes Use Permit No. 1792 and Use Permit No. 1792 (amended), which upon vesting of the rights authorized by this Conditional Use Permit No. UP2010-039, shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF MARCH, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT “A”**CONDITIONS OF APPROVAL**
*(Project-specific conditions are in italics)***PLANNING**

1. *The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)*
2. ***The proposed 565-square-foot interior dining room expansion shall not be permitted.***
3. *All proposed signs shall be in conformance with the approved plans, Comprehensive Sign Program Matrix attached as Exhibit B, and provisions of Chapter 20.67 of the Newport Beach Municipal Code.*
4. *Conditional Use Permit No. UP2010-039 and Comprehensive Development Plan No. CS2011-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
5. *The approval is only for an eating and drinking establishment defined as Food Service, Late Hours as defined by Title 20 of the Municipal Code; however, the establishment may operate with the principal purpose of the sale and service of alcoholic beverages with incidental food service after the hour of 11:00 p.m.*
6. *Full meal service shall be provided during all hours of operation, except after the hours of 11:00 p.m.*
7. *The hours of operations shall be limited to between 7:00 a.m. and 11:00 p.m., daily, unless the operator of the establishment secures and maintains an Operator License pursuant to Chapter 5.25 of the Municipal Code. In no case shall the establishment be permitted to operate beyond the hours of 2:00 a.m.*
8. *The outdoor dining patio shall be closed no later than 11:00 p.m., daily.*
9. ***The occupant load of the outdoor dining patio shall be limited to a maximum of 49 persons.***
10. *The Operator License required to be obtained pursuant to Condition No. **68** and Chapter 5.25 of the Municipal Code, may be subject to additional and/or more restrictive conditions to regulate and control potential late-hour nuisances associated with the operation of the establishment.*

11. *The material and color of any awning or umbrella located on the outdoor dining patio shall be subject to review and approval by the Planning Division. No form of advertisement shall be placed on an awning, umbrella or elsewhere in the outdoor dining patio. The outdoor dining patio, including any awning or umbrella, shall be maintained in a clean orderly condition at all times.*
12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
14. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
15. This Conditional Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
16. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Conditional Use Permit or the processing of a new Conditional Use Permit.
17. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
18. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
19. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.
20. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
21. Water **should shall** not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards.

22. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Deputy Community Development Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Deputy Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
23. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

| | Between the hours of 7:00AM and 10:00PM | | Between the hours of 10:00PM and 7:00AM | |
|---|---|----------|---|----------|
| Location | Interior | Exterior | Interior | Exterior |
| Residential Property | 45dBA | 55dBA | 40dBA | 50dBA |
| Residential Property located within 100 feet of a commercial property | 45dBA | 60dBA | 45dBA | 50dBA |
| Mixed Use Property | 45dBA | 60dBA | 45dBA | 50dBA |
| Commercial Property | N/A | 65dBA | N/A | 60dBA |

24. No outside paging system shall be utilized in conjunction with this establishment.
25. *Recorded music or other types of sound amplification within the outdoor patio area shall only be audible to the audience within the patio area.*
26. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets within the limits authorized by this permit, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
27. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
28. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate), except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.

-
29. *A new trash enclosure shall be constructed in the location illustrated on the approved plans. The trash enclosure shall comply with the development and location standards contained in Section 20.30.120 of the Zoning Code.*
 30. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
 31. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
 32. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
 33. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Deputy Community Development Director, and may require an amendment to this Conditional Use Permit.
 34. The exterior of the premises, including signs and accessory structures, shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
 35. Prior to final of the building permits, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site and adjacent areas to the Planning Division for review. The building permit shall not be finalized and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the Newport Beach Municipal Code that includes issuance of a citation of violation and monetary fines.
 36. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Division and Public Works Department in conjunction with the approval of an alternate drainage plan.

37. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
38. The rear doors of the facility shall remain closed at all times. The use of the rear door shall be limited to deliveries and employee use only. Ingress and egress by patrons is prohibited in unless there is an emergency.
39. All doors and windows of the entire facility shall remain closed at all times except for the ingress and egress of patrons and employees.
40. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited
41. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
42. There shall be no on-site radio, televisions, video, film or electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
43. *All employees are required to park on-site.*
44. *A total 47 44 parking spaces shall be provided on-site or on the adjoining off-site locations.*
45. *Prior to final of the building permits, a parking agreement, which guarantees the long term availability of the off-site parking facilities for the use of the subject establishment, shall be recorded with the County Recorder's Office. The agreement shall be in a form approved by the City Attorney and the Community Development Director.*
46. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on

the premises and shall be presented upon request by a representative of the City of Newport Beach.

47. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility. Any upgrade in the alcoholic beverage license shall be subject to the approval of an amendment to this application and may require the approval of the Planning Commission.
- ~~48. Any event or activity staged by an outside promoter or entity, where the restaurant owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited.~~
49. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
50. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when served in conjunction with food ordered from the full service menu.
51. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
52. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.
- ~~53. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and retail sales during the same period. The licensee shall maintain records that reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Planning Division on demand.~~
54. Live entertainment and dancing shall be prohibited as a part of the regular operation, unless an amendment to this conditional use permit or other required application is first approved in accordance with the provisions of the Municipal Code.
55. The establishment shall provide licensed security personnel. A comprehensive security plan for the permitted uses shall be submitted for review and approval by the Newport Beach Police Department. The procedures included in the plan and any recommendations made by the Police Department shall be implemented and adhered to for the life of the conditional use permit.
56. *The applicant shall provide security personnel within the parking lot in the evenings between 11:00 p.m. and 15 minutes after closing, in sufficient number, to advise and*

assist patrons entering and leaving the area in a quiet manner, and to prevent loitering by patrons after the close of business.

57. *The operator of the establishment shall post signs at clearly visible locations within the establishment and throughout the parking lot advising patrons to keep noise at a minimum.*
58. The operator of the establishment shall maintain a copy of the most recent City permit conditions of approval on the premises and shall post a notice that these are available for review on the premises. The posted notice shall be signed by the permittee.
59. *To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Malarky's Irish Pub including, but not limited to, Conditional Use Permit No. UP2010-039 and Comprehensive Sign Program No. CS2011-002 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

Fire Department Conditions

~~60. Automatic fire sprinklers shall be required if the occupant load is 100 persons or more.~~

61. Portable propane heaters are not permitted. Any proposed heaters for the new outdoor dining patio shall be either electric or natural gas installed in accordance with the California Electrical or Plumbing Code.

Building Department Conditions

62. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
63. All exits shall remain free of obstructions and available for ingress and egress at all times.

- 64. Strict adherence to maximum occupancy limits is required.
- 65. Grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems in accordance with the provisions of the Plumbing Code, unless otherwise approved by the Building Division.

Public Works Conditions

- 66. *The proposed signs, awning, and entry canopy that project into the public right-of-way shall comply with City Council Policy L-6.*
- 67. *Prior to final of the building permits, the applicant shall ~~be~~ reconstruct the curb, gutter and sidewalk from the southerly building corner to the northerly property line along Newport Boulevard.*
- 68. *Prior to final of the building permits., the applicant shall reconstruct the existing driveway approach at the northerly portion of the project site along Newport Boulevard.*
- 69. *Implementation of valet parking shall not be permitted unless a valet operation and management plan is first submitted for review and approved by the Deputy Community Development Director and the City Traffic Engineer.*

EXHIBIT “B”

Sign Program Matrix



Comprehensive Sign Program Matrix for 3011 Newport Blvd

Planning Department
3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3200 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

Frontage Designations:

- A. Newport Blvd
- B. 30th Street
- C. Northwest (Facing Shopping Center)

(LF = Linear Feet / SF = Square Feet)

| Type of Sign | Primary Frontage Newport Blvd | Secondary Frontage 30 th Street & Northwest (Facing Shopping Center) |
|-------------------------|--|--|
| Wall Sign (1) | Maximum number of signs: 3 Maximum sign area: 75 SF Maximum vertical dimension: 18 inches Minimum distance from building corner: 7 feet | Maximum number of signs: 1 Maximum sign area: 37.5 SF Maximum vertical dimension: 24 inches Minimum distance from building corner: 7 feet |
| Projecting Sign (1) (2) | Maximum number of signs: 1 Maximum sign area: 10 SF Maximum Projection: 3 feet | N/A |
| Awning Sign (1) (2) (3) | Maximum number of signs: 4 Maximum sign area: 8 SF Maximum vertical dimension: 6 inches | Maximum number of signs: 2 Maximum sign area: 4 SF Maximum vertical dimension: 6 inches |
| Total Sign Area | 75 SF for any combination of signs | 37.5 SF for any combination of signs |

NOTE: Sign area is the area measured by two perpendicular sets of parallel lines that surround the proposed logo and sign copy. All signs shall substantially conform to the approved set of plans stamped and dated March 3, 2011. Pursuant to Section 20.42.120.F of the Zoning Code, the Planning Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

- (1) Subject to the regulations of 20.42.080 for sign standards by sign type, unless otherwise indicated by table matrix and or in the finding and conditions in the associated resolution of approval.
- (2) A minimum of 8 feet of clearance between the lowest part of a sign/awning and the grade below shall be provided.
- (3) Signage limited to valance only. A maximum of 50 percent of the valance area shall be used for signage.



**Proposal for an Outdoor Dining Patio
And Remodel / Expansion
Planning Commission Hearing
March 3, 2011**

Mario Marovic

Personal

- Married to Ashlea Marovic and lives in Newport Beach with our 2 year old daughter
- Vested in the community

Education

- USC- School of Entrepreneurship
- MBA – Marshall School of Business (USC)

Experience

- 2nd Generation restaurateur
- Owns six locations in Orange County

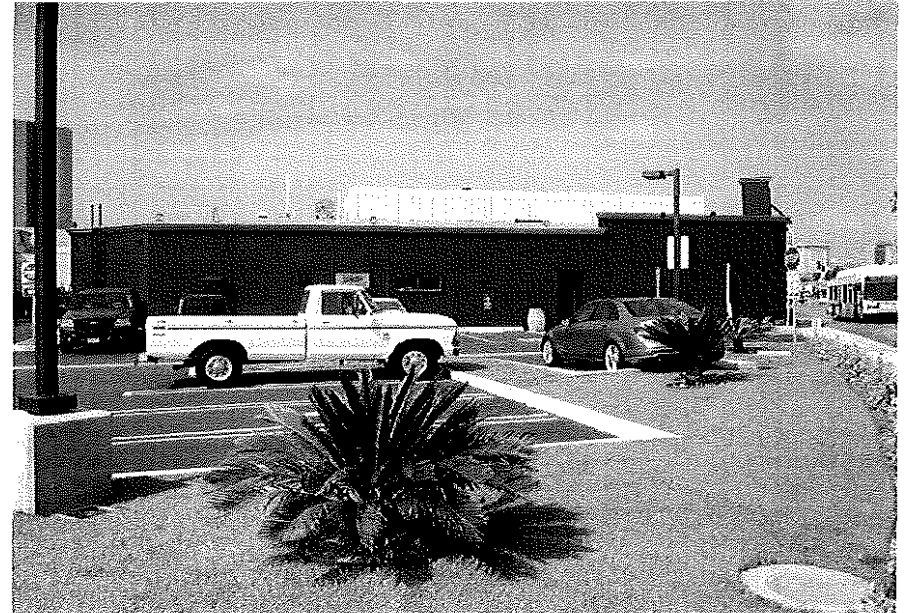
Why Are We Here?

BETTER FACILITY = BETTER DEMOGRAPHIC

Malarky's Exterior Improvements



BEFORE



AFTER

Exterior Improvements To Date

- Landscaped Parking Lot
 - Extensive lighting
 - Installed a water clarification
 - Daily cleaning crew
- Building Facade
 - Stucco and paint
 - Crown molding
 - Custom planter boxes
 - New bike rack
 - New trash cans
 - Rooftop equipment

Interior Improvements To Date

- New refrigeration equipment
- New menu
- New kitchen equipment
- More kitchen staff with training
- Implemented new computer point of sale system
- Doubled food sales!

Restrooms

Current Restrooms

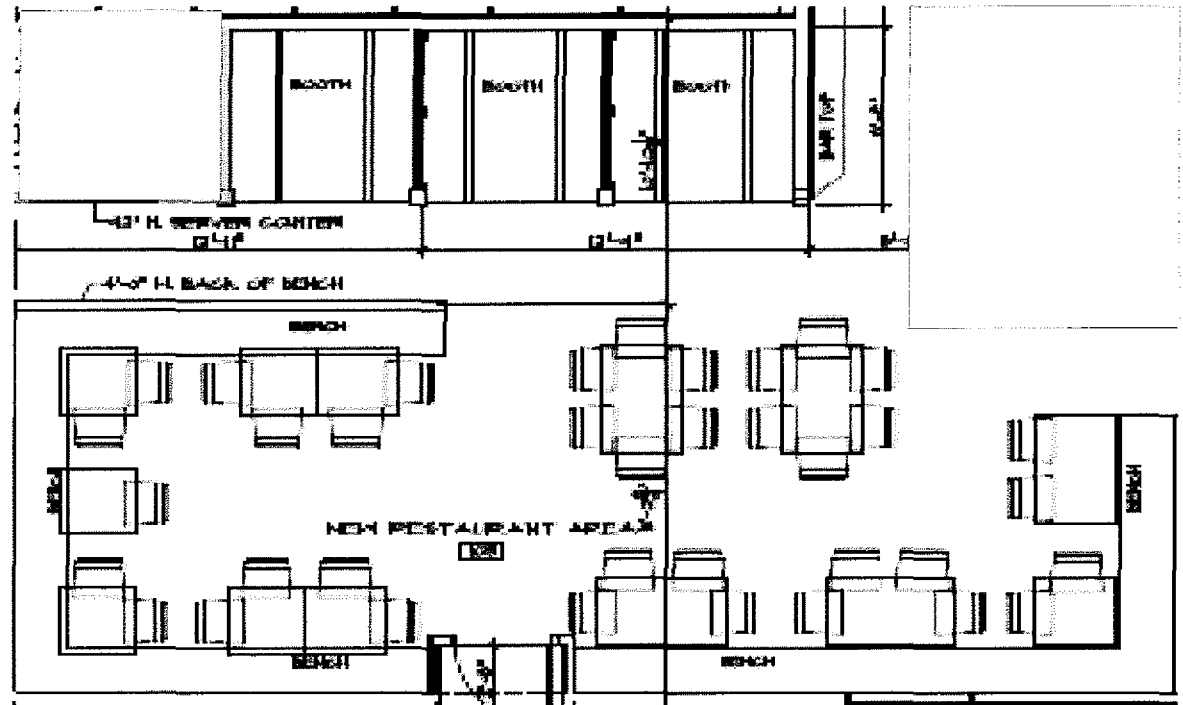
- NOT ADA compliant
- Mens: one sink, one urinal and one stall (NON ADA)
- Womens: one sink, two stalls (NON ADA)
- Both restrooms are VERY small and inconvenient

Proposed Restrooms

- Fully ADA compliant
- Mens: three sinks, four urinals and one stall (ADA compliant)
- Womens: three sinks, five stalls (ADA compliant)
- Spacious restrooms with weekend restroom attendants

Interior Expansion Remodel

- 565sq.ft. (Size of a large two car garage)
- Fixed dining booth and table except for two tables (to accommodate larger parties)
- Malarky's currently only has one booth



- Attract a higher end dining clientele
- Diners prefer fixed booth section
- Constructed with high quality distressed wood and fixtures

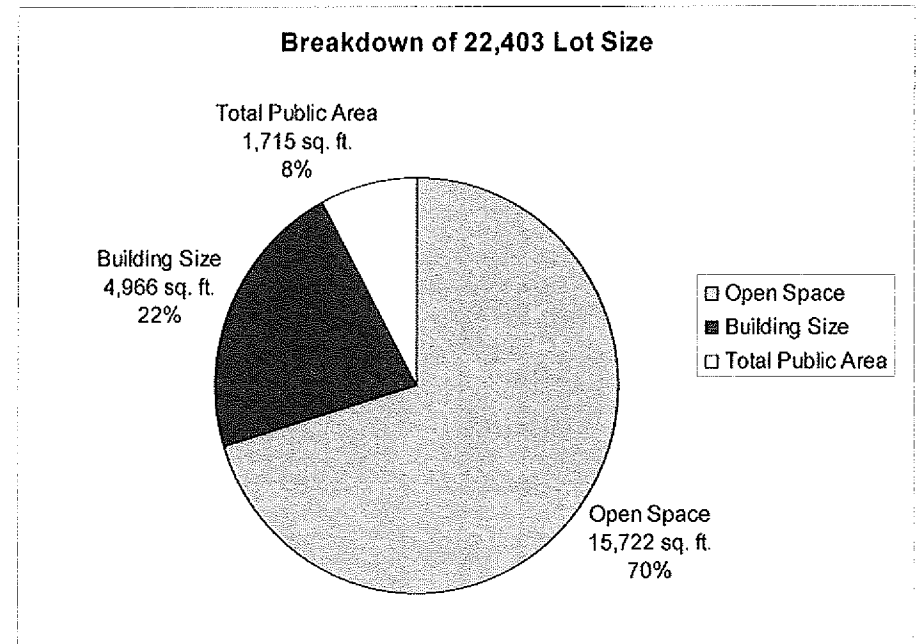
Outdoor Dining Patio

- 11pm Closing time
- Average dining experience is 2 hours
 - Allows 8:30p.m. – 9:00p.m. seating
- 9 foot glass enclosure
- Surrounded by two 25 feet and one 18 foot wall

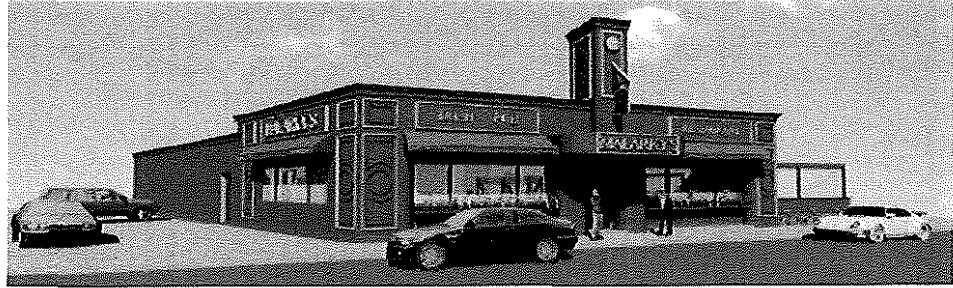


Total Net Public Area

- Proposed Total Net Public Area after 11pm is 1,715 sq. ft.
- This is a *modest* improvement
- In restaurant or bar terms 1,715 sq. ft. is considered *small*
- The existing building size is 4,966 sq. ft.
- The proposed Net Public Area is only 34.5% of the existing building size after 11pm (compared to current 23.1% Net Public Area)
- 34.5% is a *very low* ratio of Net Public Area



Signage



The building is centered on the property, leaving three sides visible from the street (compared to a store-front in a strip mall.)

The proposed signage takes into consideration:

- The uniqueness of the property
- Authentic and traditional Irish Pub architecture
 - I traveled to Ireland specifically to research traditional Irish Pub architecture and how it may apply to this project
- Neighborhood involvement
- Community Beautification

New Security Plan

- All security staff will be State of California Guard Card Certified
- Require a set amount of security staff, with a ratio of 1 security staff for every 50 persons
- Require radio headsets to communicate
- Have bathroom attendants on weekend nights
- Parking lot attendant on weekend nights til 3am
- Keep a daily log of activities
- All bar and service employees will be State of California LEAD Class Certified

CUP Comparison

| Conditions of Approval | OLD CUP | NEW CUP |
|---|---|---------|
| 1. Operator's License issued by Police Chief | No | Yes |
| 2. Security Plan | No (* But current one was implemented by new management) | Yes |
| 3. Parking Lot Attendant | No | Yes |
| 4. Guard Card Certificate for Security Employees | No | Yes |
| 5. ADA Bathroom | No | Yes |
| 6. Grease Interceptor | No | Yes |
| 7. Fire Sprinklers | No | Yes |
| 8. Emphasis on Restaurant Quality | No | Yes |
| 9. ABC Training for Management | No | Yes |
| 10. "Outside Promoter" Restriction | No | Yes |
| 11. Happy Hour Restriction | No | Yes |
| 12. Four Dedicated Taxi Spaces on Friday and Saturday Night | No | Yes |
| 13. One Year Review by Planning Commission | No | Yes |

Letter of Recommendation

- Recommended by a former Police Captain and 30 year veteran of the Fullerton Police Dept., responsible for coordinating police/community/business interaction, as specifically related to Downtown Fullerton
- “The success of any police/community effort relies upon the character and commitment of its City, community and business leaders; Mario Marovic is such a leader.”
- “The Matador opened its doors in early 2009 and has been a cornerstone for stability in the Downtown ever since.”
- “Mario has lived up to his promises and exceeded expectations both personally and professionally in the Downtown business community.”

Track Record

- Co-founder of the Newport Beach Bar and Tavern Association in conjunction with NBPD
- Owns three type 48 licenses in two different cities, as well as three type 47 licenses
- No ABC violations
- Employ 200 people at six locations, in three cities with strong ties to each community

BETTER FACILITY = BETTER DEMOGRAPHIC

Letters of Support





**NEWPORT BEACH
CHAMBER OF COMMERCE**
Building on a Century of Service

February 22, 2011

Mr. Robert Hawkins, Chairman
Newport Beach Planning Commission
3300 Newport Blvd.
Newport Beach, CA 92663

RE: Malarky's Irish Pub

Dear Mr. Hawkins:

It is with great pleasure that the Newport Beach Chamber of Commerce writes a letter of support for the proposed remodel of Malarky's Irish Pub located at 3011 Newport Blvd., Newport Beach, CA 92663. The Chamber has always supported investment in our community and this remodel of a well established Restaurant is the right project at the right time.

The owner, Mr. Mario Marovic has a well established record of management in our community as owner of the Landmark Steak House in Corona del Mar since 2004 and the District Bar on the peninsula since 2006. Mr. Marovic has proven to be a responsible restaurant owner with no record of ABC violations or complaints from any of his neighbors.

Malarky's Irish Pub has been a fixture in our community for many years. The proposal adds a quaint outdoor patio area for our residents and visitors to enjoy. The location of the new patio is shielded by surrounding buildings so as to not impede on the quiet enjoyment of the neighbors. With the investment of nearly half million dollars adding a mere 500 square feet of public area including a total rehabilitation of both men's and women's bathrooms along with additional dining areas, this project will be a welcome enhancement to the area for years to come adding additional sales tax component to the City.

The project is also supported by the development of additional parking in the adjacent lot to the south and a reconfiguration and easement agreement from the adjacent property owner to the north making this project adequately parked.

For these reasons the Newport Beach Chamber of Commerce enthusiastically supports this proposed investment in our community and asks the Newport Beach Planning Commission to do the same..

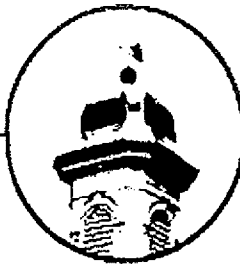
Sincerely

A handwritten signature in black ink, appearing to read 'Richard R. Luehrs', with a long horizontal flourish extending to the right.

Richard R. Luehrs
President

Cc: Members of the Newport Beach Planning Commission

NEWPORT



ELEMENTARY

SCHOOL FOUNDATION CL.

Malarky's Irish Pub
3011 Newport Blvd
Newport Beach, CA 92663

Dear Brent & Mario,

On behalf of Newport Elementary School Foundation, I would like to personally thank you for your generous fundraiser night at Malarky's. Everyone had such a great time! We look forward to doing another event.

Your contribution is essential to the delivery of important programs and resources that enhance our children's educational experience. These are learning opportunities that would not otherwise exist due to state budget cut backs.

We are grateful for your generosity and hope you will take great pride in the important difference that your support makes.

Thank you,

A handwritten signature in cursive script that reads "Dena Baron".

Dena Baron

*Please tell your staff a big "Thank you" from Newport EL!!!

Newport Elementary School Foundation Board of Directors

Eric Aust, Trish Bashaw, Dena Baron, Sandi Bulgin, Mary Cappellini, Melissa Chong, John Christensen, Stacy Christensen, Kristin Douglas, Darcy Gassel, Heather Hansberger, Julie Johnson, Laura Keane, Wendy Maddocks, Max Morris, Monica Morton, Aimee Nourse, Alisa Proctor, Michelle Rappoport, Tori Rimlinger, Helen Rotherham, Kathy Sinacori, Shelly Walshe, Elizabeth Wiley, Matt Wiley

Thank you again for your generous support!

Federal Tax ID #33-0756406

Murillo, Jaime

From: Mario Marovic [mario@loungegroup.com]
Sent: Monday, January 03, 2011 4:04 PM
To: Murillo, Jaime
Subject: Letter of Recommendation

Dear Newport Beach Planning Department:

My name is Greg Mayes. I retired last December as a Police Captain from the Fullerton Police Department after almost 30 years of service. During my last few years I was responsible for coordinating police/community/business interaction as it related specifically to Downtown Fullerton. Our Downtown had grown rapidly and many issues arose that challenged the City's ability to balance public safety and perception, with the prosperity of our diverse late night entertainment venues.

My practice was always one of seeking the cooperation and assistance of our Downtown business community in the development of comprehensive strategies to minimize adverse impacts to public safety while fostering a prosperous late night business environment. This process is difficult and requires supportive and participatory business owner/operators. The success of any police/community effort relies upon the character and commitment of its City, community and business leaders; Mario Marovic is such a leader.

In 2008 the Fullerton Downtown had several problem establishments including the business known as Rock-n-Taco. This location was one of the focal points for disorder in the Downtown. In late 2008 Mr. Marovic began negotiations to purchase the business. I had not met Mario prior to becoming aware of his intentions to buy the Rock-n-Taco. Mario and I spoke on several occasions during his negotiations. I placed considerable demands upon him during my discussions and advised him he would be, "under the microscope." He said he understood the concept of consequences. Mario promised a well-managed, well-maintained business with a menu suitable for upscale dining. He advised me he would maintain security during late night hours and that he hoped to become the role-model for restaurant/lounges in the Downtown. He promised to communicate openly and honestly with other community, business and city leaders.

The Matador opened its doors in early 2009 and has been a cornerstone for stability in the Downtown ever since. Mario has lived up to his promises and exceeded expectations both personally and professionally in the Downtown business community. Mario has spearheaded Downtown business efforts in the form of restaurateur collaborations, business/community meetings and city/business efforts. He has been a significant contributor to local charity efforts including the Fullerton Boys & Girls Clubs. He has opened The Matador to fund raising events and used the business as a gathering place for entities such as the Fullerton Chamber of Commerce. Under the oversight of Mario, The Matador has become a signature location in Fullerton's late night entertainment district. Mario has worked, and continues to work, with the Police Department to cooperatively identify issues and form resolutions. Mario is a trusted resource within the community and especially the Fullerton Downtown area.

I cannot compare apples to oranges and do not have the same intimate knowledge of Newport Beach late night venues as I do of Fullerton's Downtown. I can however attest to Mario's character and commitment as it relates to the manner in which he oversees his businesses. His management of The Matador restaurant has brought to the City of Fullerton an enjoyable daytime restaurant, tasteful dining establishment and safe late night gathering place. I hope he is afforded the opportunity to do the same in Newport Beach.

With best regards,

Greg Mayes

December 20, 2010

City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

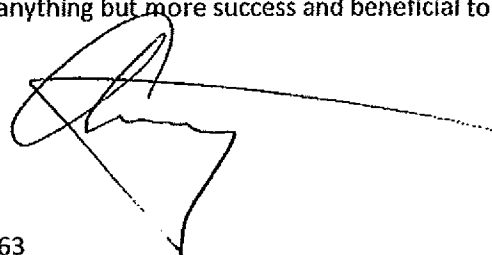
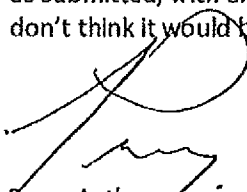
To Whom It May Concern:

I am a 35 year resident of the Balboa Peninsula and patron of the Malarky's Irish Pub. I have gotten to know Mr. Marovic very well since he acquired the business last April. Since Mr. Marovic took over operations at Malarky's, I immediately noticed many positive changes at the business. Some of the changes that took place immediately after Mr. Marovic acquired the business are:

- Implemented an employee training program;
- Improved the menu;
- Hired a full time manager;
- Purchased all new glass and dishware;
- Increased security in the evenings;
- Completed a lot of past due repairs that the previous owner neglected;

Mr. Marovic has also made numerous changes to the exterior of the building, improving its appearance and curb appeal. The entire neighborhood looks better with his outdoor improvements, from the chain link fenced off dirt lot converted to a cleanly paved parking area and the removal of the so-called "weed gardens" on the front of the building into the new streamlined, custom-built flower boxes. Even a simple fresh coat of paint has changed the building tremendously and given it (and the surrounding area) new life.

The Malarky's CUP application is particularly important to me because of my very close proximity to the building; I live a block away. I cannot see that his further renovations would harm the community in any way, only continue to improve our neighborhood. I want to express my support for the CUP application as submitted, with existing hours of operation. I am a very close neighbor and am not affected now, and don't think it would be anything but more success and beneficial to his closest neighbors.



Perry Anthony
428 31st Street
Newport Beach, CA 92663

March 3, 2011

Dear Newport Beach:

I live about 250 feet from the front door of Malarkys, right down the alley. My master bedroom is on the alley and there was not been one episode where we have been shaken from sleep by a disturbance from the patrons of Malarkys. The noise that we hear is a muffled noise of conversations and laughter.

The place is iconic in Stature and Legend.

As the city redevelops the new shopping center area to make it more attractive for the citizens of Newport and the thousands of visitors that come here and spend their money why can't a successful businessman like Mario take his ideas and improve on the Malarkys brand making it a destination to eat and drink when people come to visit the Peninsula and make it a great place to eat, have a cold beer and meet up with friends for the people who call this area home.

I hope the council will see the win win situation with the improvements made to the shopping center and the updating and modernization of Malarkys as they should complement each other

Paul Reilly

Long time resident

Emerald Bay Company

December 18, 2010

Frank Kosi
EMERALD BAY COMPANY
2824 Newport Blvd
Newport Beach, Ca. 92663

RE: Malarky's Irish Pub

To Whom It May Concern,

I am writing this letter for the purpose of expressing my support and excitement regarding the proposed improvements to Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

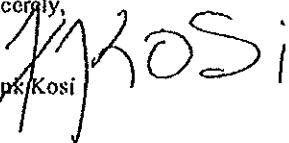
I reside at 2824 Newport Blvd, very close to the Malarky's Irish Pub. I was happy to hear that the proposed improvements to this establishment would include a new upgraded seating area with a fireplace, new restrooms and an outdoor patio for diners. As a real estate investor, I am constantly looking for new and interesting places to entertain clients while conducting business. I first started frequenting Malarky's about fifteen years ago. However, I rarely frequented Malarky's in the past few years because of its deteriorating condition. Since, Mr. Marovic acquired Malarky's last April it has noticeably improved. He cleaned up the dirt lot next to the restaurant and put in a new parking lot. The dirt lot was an eye sore for a long time and I'm happy that he cleaned that up.

With the proposed new dining area, outdoor patio and restrooms the improved Malarky's will definitely be a destination for my family, friends and clients. I look forward to being able to have dinner and drinks at the new Malarky's and enjoying my short walk home.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends, family and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,

Frank Kosi

A handwritten signature in black ink, appearing to read 'FKOSI', written over the printed name 'Frank Kosi'.

December 16, 2010

Bruce Schoenberger
408 31st Street
Newport Beach, CA 92663

To Whom It May Concern,

I am writing this letter for the purpose of expressing my complete support regarding the proposed improvements to Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I am a Newport Beach resident for over 25 years, I live at 3800 Channel Place. My 2nd Home /Studio, Showin Galleries & Gardens is located directly across the street from Malarky's Irish Pub off the Newport Beach Peninsula at 408 31st Street. I am one of the closest properties across the street from Malarky's Irish Pub.

I first met Mr. Marovic when he acquired the business last April. He was kind enough to knock on my door and introduce himself as the new owner of Malarky's Irish Pub. Mr. Marovic has been very open about his plans and even asked me for any input that I may have regarding his project.

I was shocked to hear that Mr. Marovic didn't have complete support of the neighborhood. Especially since acquiring the Malarky's location, Mr. Marovic has already done more to beautify the neighborhood than any other neighbor in close proximity. For example, he took the vacant lot that became a weed garden surrounded by a chain link fence and transformed it into one of the most beautiful parking lots in the entire city.

Since Mr. Marovic acquired Malarky's I have noticed a major improvement to the food and service. I went from rarely frequenting Malarky's for lunch and dinner to eating at the establishment quite often. The new dining area, outdoor patio and restrooms will allow Malarky's to further improve its food and service by attracting a more desirable demographic. I look forward to being able to have dinner and drinks at the new Malarky's with my family, friends and business clientele.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends, family and neighbors intend to support the project as submitted! Should you have any questions or concerns, please feel free to contact me at 949-929-2136.

Sincerely,


Bruce Schoenberger

Mario Marovic

From: Murillo, Jaime [JMurillo@newportbeachca.gov]
Sent: Thursday, March 03, 2011 11:15 AM
To: Mario Marovic
Subject: FW: Regarding Malarkys improvements

FYI...

From: Steve Nicholson [mailto:bchnick@pacbell.net]
Sent: Thursday, March 03, 2011 11:10 AM
To: Murillo, Jaime
Subject: Regarding Malarkys improvements

Dear Jaime Murillo,

I am a twenty-three year homeowner at 212 30th Street, right behind the new Landing Shopping Center. My wife and I do not have any issues with Malarky's and their improvements. They have a responsible staff. Mario has made vast improvements to the exterior of Malarky's and the corner of 30th Street and Newport Boulevard. Wow!

We would like to see him continue on with the interior renovations and improvements. I believe a majority of our neighbor's which I keep in contact with are in favor of the improvements and clean up.

We wish Mario much success with his business endeavors. Thank you for your time. I can be contacted at the cell phone below for more information about the neighborhood if needed.

Best regards,

Steven C. Nicholson
(949) 233-4416

Mario Marovic

From: Murillo, Jaime [JMurillo@newportbeachca.gov]
Sent: Thursday, March 03, 2011 8:52 AM
To: Mario Marovic
Subject: FW: Malarkys patio issue

-----Original Message-----

From: colinweeks@hotmail.com [<mailto:colinweeks@hotmail.com>]
Sent: Wednesday, March 02, 2011 9:53 PM
To: Murillo, Jaime
Cc: Nikol Weeks
Subject: Malarkys patio issue

Mr. Murillo:

My name is Colin Weeks, and I have lived at 214 30th Street for the past 5.5 years. I live 2 houses over from the Albertsons (Pavillion) and Malarkys parking lot, and directly across the street from Mr. Drew Wetherhold.

In the past 5.5 years, I have never had an issue with Malarkys, its staff or its patrons. I am writing this letter to make sure that the City of Newport Beach knows that Mr. Wetherhold's letter opposing the outdoor patio initiative DOES NOT represent neither my view nor that of my wife. In fact, I believe that Mr. Wetherhold's letter solely represents his own personal agenda. I sincerely believe that Mr. Wetherhold's opinions are not shared by the majority of his neighbors, and I encourage you to speak with all of them.

Mr. Wetherhold decided to built a house on a lot attached to a retail parking lot, and since that time he has tried to force Albertsons, and now, Malarkys to cater to his own personal agenda and make they cave into his demands.

Not only has Malarkys been a great neighbor and Newport Beach institution, but its recent cosmetic additions to the facade and new parking lot have made the 30th Street neighborhood even nicer. I think it is sad that people waste taxpayer time and money to manipulate the system to meet personal agenda.

I am happy to discuss this matter in any level of detail, in any venue - public or private.

Sincerely,

Colin S. Weeks
(949) 500-3512

Mario Marovic

From: Murillo, Jaime [JMurillo@newportbeachca.gov]
Sent: Thursday, March 03, 2011 8:52 AM
To: Mario Marovic
Subject: FW: Malarkeys Restaurant

-----Original Message-----

From: Bill [<mailto:guiderodesign@att.net>]
Sent: Thursday, March 03, 2011 7:23 AM
To: Murillo, Jaime
Subject: Malarkeys Restaurant

Planning Commission

Re: expansion of existing restaurant

I'm a local resident in Newport Beach for 40 years.
All of the 40 years on the peninsula. I also have my own architectural design business on
30th Street for approximately 20 years.

Malarkey,s has always been a upstanding establishment in our community.
I either ride my bike or drive by Malarkey's every morning on my way to work.
The grounds surrounding the restaurant is always in pristine condition.
I've enjoyed the food and sporting events since they have opened in the 70's.
I'm in total support for the expansion of the restaurant.

Thank you Bill Guidero

William Guidero planning and design
425. 30th Street suite#23
Newport Beach, California 92663
guiderodesign@att.net (949) 675-2626

Sent from my iPad

1529 Miramar Drive
Balboa, CA 92661

March 2, 2011

Mr. Earl McDaniel
Chairman
Planning Commission
City of Newport Beach
3300 Newport Boulevard
City of Newport Beach, California 92663

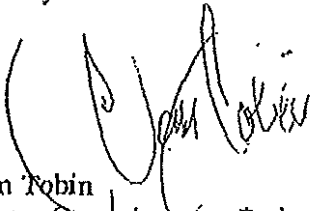
RE: Support for Malarkys Project

Dear Mr. McDaniel:

Last night my wife and I had a great prime rib dinner at Malarkys at their Tuesday night "prime rib" special. For many years I have been a loyal customer of Malarkys. The new owner, Mario Marovic, is making the premises and food even better.

Mario has also done a great job cleaning up the parking lot and building. I support his modest request for additional dining room space and an outdoor patio. When he attracts a higher clientele, I just hope he doesn't raise the prices too much.

Thank you.



Tom Tobin
Former Commissioner, Parks, Beaches and Recreation Commission
Peninsula resident

Murillo, Jaime

From: Ted Mortenson [ted.mortenson@sbcglobal.net]
Sent: Sunday, February 27, 2011 2:52 PM
To: emcdaniel@sunwestbank.com; Murillo, Jaime
Cc: 'Louise Fundenberg'; dwetherholt@marcusmillichap.com
Subject: My Feedback regarding fellow resident Wetherholt and the FW: STOP MALARKY'S BAR EXPANSION-THIS DOES IMPACT YOU

FYI –

Following is a copy of my reply to Louise Fundenberg's e-mail regarding Mr. Wetherholt's issues surrounding about his problem with intoxicated people in Newport Beach..... and Malarky's interest in expanding its business. Mr. Wetherholt seems to be one of those people who want to control the rights of others including restricting business owners even more than unfortunately they already are.

Thank you,

Ted Mortenson

From: Ted Mortenson [mailto:ted.mortenson@sbcglobal.net]
Sent: Sunday, February 27, 2011 2:36 PM
To: 'Louise Fundenberg'
Subject: RE: STOP MALARKY'S BAR EXPANSION-THIS DOES IMPACT YOU

Dear Mr. Wetherholt,

Yes, this does impact me even though I have only set foot in Malarky's once in the last 30 years. In fact it pisses me off. Pardon my frankness, but who should care what you think regarding your desired size of Malarky's building? Every American business owner still has a right to improve or otherwise make larger his property if he so chooses (existing building codes notwithstanding). They don't have to please you!

If you have a problem with drunk people, you need to address that directly and honestly instead of masking your intentions. You should know, there are tried and true legal avenues currently enforceable on the owners of restaurants or bars regarding intoxicated customers. Your concern seems to be Malarky's bartenders continue to serve alcohol to drunk patrons & customers... or otherwise attract drunk patrons - right?

Well, regardless of your true intention(s), you have no moral or legal right to limit the size of Malarky's physical building other than what is designated by current CA and NB codes. I wish people like you would deal more appropriately, more honestly and according to existing law with your individual concerns regarding others. Or, go ahead and try to change the law so that you and your 'friends' can decide how big Malarky's building should be, or even exist at all. That would solve your "additional 100+ intoxicated individuals" concern wouldn't it?

And thank you for pointing this out though so that I can let my opinion support current recommendations for approval.

Respectfully,

Ted Mortenson

From: Louise Fundenberg [mailto:pier2pier@yahoo.com]
Sent: Sunday, February 27, 2011 11:22 AM

Mario Marovic

From: George Leeper [gcleeper@gmail.com]
Sent: Sunday, February 27, 2011 4:33 PM
To: Mario Marovic
Subject: Marlarky's

Mario,

Judy and I have no objections to Marlarky's remodel and expansion.
We live at 419 30th St and can see the place from our bedroom.
We are happy with your management and will support you any way we can.

If I can be of any further help, please feel free to call.

George Leeper
419 30th St
Newport Beach, Ca

949 723 5333

***Caren Lancone
1900 W. Oceanfront
Newport Beach, CA 92663***

March 1, 2011

Mr. Earl McDaniel
Chairman
Planning Commission
City of Newport Beach
3300 Newport Boulevard
City of Newport Beach, California 92663

RE: Support for Malarkys Project

Dear Mr. McDaniel:

As a peninsula resident and Newport Beach businesswoman I am writing to express my support for the Malarkys expansion.

My business, B Scene Advertising, does advertising, event planning, public relations and other related services. We run charity and promotional events for entities such as The Real Housewives of Orange County and the Miss Newport Beach Pageant. I have trouble finding quality venues large enough to accommodate the 12 pre-events and main event. We also like to use different facilities so as to have variety and not the same place every time.

After the remodel, Malarkys would be a perfect location for us to hold a pre-event for the Miss Newport Beach Pageant or a promotional event for the Real Housewives.

Driving down Newport Boulevard I have seen the new landscaped parking lot and improved exterior of the building which is definitely an improvement to the peninsula. I believe the addition of the outdoor dining patio and indoor remodel/expansion will raise the level of clientele of Malarkys. This is good for everyone. All ships rise with an incoming tide.

I do think the outdoor patio should be allowed to stay open till at least 11:00 p.m. In the summer time especially I enjoy a late dinner with friends after work or on the weekend.

Please vote to approve the Malarkys project. Thank you.

Caren Lancome

Brent Ranek
246 Lugonia St
Newport Beach, CA 92663
(949)650-2708

Date: December 20, 2010

To: CNB Planning Department
From: Brent Ranek
Re: Malarky's Restaurant

To Whom It May Concern;

I have lived and worked in the city of Newport Beach for over thirty years. I bought my first home in 1986, which I still own and rent while maintaining my primary residence also in the city. The main reason I invested in the city of Newport Beach was because of its beauty and status. These investments have held their own in this troublesome market. And I believe it is because the way this city maintains a high level of standards.

When I was asked by Mario Marovic, the new owner of Malarky's Irish Pub to write a letter on his behalf I was shocked to hear their was some reluctance by the city to have him make improvements to the property, while maintaining the existing hours of operation. For years I have driven by Malarky's and seen old washed out green awnings and a weed covered empty lot next door. I do know quite a bit about the property because at one time I approached the previous owner about buying the property. The dilapidated lot next door has been sitting empty for almost 17 years now. And now it is so nice to see that it has finally been landscaped and set up for parking.

Malarkys has been a local landmark for over 30 years now and any upgrades to this facility are long over due. Mario Marovic is a "get it done" type of businessman who has already proved with his other two businesses in the city that he uses sound judgment when it comes to improving property's. Landmark Steakhouse and The District Lounge are excellent examples of how simple upgrades can turn an average establishment into a profitable, destination "Hot Spot" that benefit all involved.

Brent Ranek
246 Lugonia St
Newport Beach, CA 92663
(949)650-2708

The fact that Mario is willing to put forth his own effort and capital to make these improvements to another restaurant in this city, to me seems that he is dedicated to making this a better city to live and work in. These improvements will benefit the city by increasing revenues and the new menu and chef that Mario has provided at Malarky's Restaurant gives all of us another option for dinner.

As a multiple home owner and past restaurant owner in the City of Newport Beach, I would trust this very successful businessman and allow him to make these necessary changes and improve another existing establishment in the City of Newport Beach.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Ranek", with a stylized, cursive script.

Brent Ranek



Southern California Division
ARCTIC GLACIER INC.

December 17, 2010

Andrew Gabriel
419 Evening Star Lane
Newport Beach, CA 92660

To Whom it May Concern:

My name is Andrew Gabriel and I am a third generation Newport Beach resident. I grew up in the city of Corona Del Mar and currently own a home in Dover Shores. My family owns residences throughout the Newport Beach area, including the Newport Beach Peninsula.

At one time, I was a frequent customer at Malarky's Irish Pub. In the past few years, I have not spent a great deal of time on the Peninsula or at Malarky's. However, since Mr. Marovic took over operations last April, it has given me an opportunity to rediscover the Malarky's Irish Pub. The few changes that have been made at this location have been great. I look forward to supporting his CUP Application and plans.

Please keep me posted on the progress of the currently submitted CUP application and plans. I intend to support the CUP application.

Thank you for your time and consideration..

Sincerely,

Andrew Gabriel

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Nathan Holthouser
126 41st Street
Newport Beach, CA, 92663

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard


To Whom it may concern,

I reside on the Newport Beach Peninsula. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. I have personally listed and sold multiple commercial properties in Newport Beach and other coastal Orange County cities. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues. I am very pleased with the improvements that have been done already to the adjacent parking lot, and I look forward to the positive impact that the new improvements to Malarky's will have on the Newport Beach Peninsula.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,



Nathan Holthouser
Associate

December 15, 2010

To The City of Newport Beach Planning Department and Police Department:

My name is Gregory Ozimec. I am a 20-year Newport Beach resident and home owner, with two children in the local schools. I wanted to take the time to express my support for the proposed plans at 3011 Newport Boulevard, otherwise known as Malarky's Irish Pub.

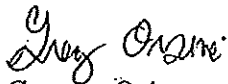
I am very happy with the changes that have already taken place, especially the new paint job, façade improvements and new parking lot. I have reviewed the blueprints for Malarky's planned new restrooms and dining area, and I am in complete support of the Malarky's Irish Pub's further improvements, as are many of my friends and neighbors.

I often times ride my bicycle to Malarky's to meet friends for dinner and drinks, and feel that the additional parking recently provided by Malarky's amply supports the planned new dining room. We are looking forward to the new improved Malarky's.

By approving the Malarky's CUP application the city will allow Malarky's to create a facility that will cater to an upscale demographic. Please keep me informed of any substantial changed to the proposed CUP application. I intend to support the proposed plans and use as submitted.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Gregory Ozimec".

Gregory Ozimec
315 Canal Street
Newport Beach, CA 92663

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17, 2010

Brin Hamblin
20362 Santa Ana Ave. #13
Newport Beach, CA 92660

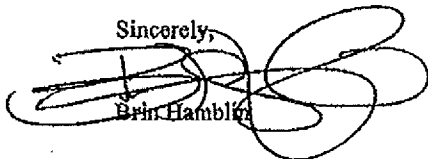
To Whom It May Concern,

I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, at 3011 Newport Boulevard, Newport Beach.

I recently moved to Newport Beach from Indiana and have been to Malarky's quite a few times. It reminds me, a lot, of places back home and I feel it's a perfect spot for the proposed plans. I was informed of the new design by colleagues of mine and think they would be able to compete well with other area venues. I find that in my recent move here, there aren't as many true to form outdoor dining places as I would've expected. And these plans would allow for Malarky's to hold more people both indoors and out, whether it be for dining or night life.

I am completely in support of the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Brin Hamblin

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Daniel Blackwell
126 41st Street
Newport Beach, CA, 92663

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard

To Whom it may concern,

I reside on the Newport Beach Peninsula. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,


Daniel Blackwell
Associate

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Shane McConnell
1167 Campanile
Newport Beach, CA, 92660

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard

To Whom it may concern,

I reside in the city of Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,



Shane McConnell
Senior Associate

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 851 - 3030
Fax: (949) 833 - 0701
www.MarcusMillichap.com

December 17, 2010

Mark Bridge
1433 Superior Ave #142
Newport Beach, CA 92663

To Whom It May Concern,

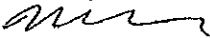
I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I reside in Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub, I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business on a regular basis. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Mark Bridge

Marcus & Millichap

Real Estate Investment Services

Scott G. Hook
First Vice President Investments
Senior Director
National Retail Group

December 17, 2010

To Whom It May Concern,

I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I reside in the Harbor View Community of Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business on a regular basis. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Scott Hook

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612.
Dir: (949) 419-3224
Fax: (949) 419-3343
www.MarcusMillichap.com

Frank R. Fasel
P: (714) 966-2008
F: (714) 876-6397
frf@faselnefulda.com

Thomas A. Fasel
P: (714) 966-2008
F: (714) 876-6397
taf@faselnefulda.com

Jordan B. Nefulda
P: (714) 966-2008
F: (714) 876-6397
jbn@faselnefulda.com

**Fasel
Nefulda
LLP**

Fasel Fasel & Nefulda LLP (US)
www.faselnefulda.com

Orange County
3200 Bristol Street, Suite 615, Costa Mesa, CA 92626
Los Angeles and Long Beach
One World Trade Center, Suite 800, Long Beach, CA 90831

December 20, 2010

City of Newport Beach
Planning Department
Attn: Jalme Murillo
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Improvements to Malarky's Irish Pub

Dear Ms. Murillo,

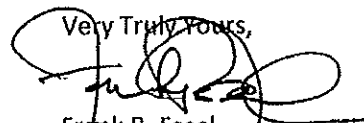
I am a current resident of Balboa Peninsula and a local restaurant patron. Recently, Malarky's, located a block from my house, dramatically transformed the previous unsightly street corner of 30th and Newport Boulevard to an attractive restaurant destination through the addition of a new parking lot, planters and landscaping, eye-catching exterior paint, and a newly enhanced entrance. However, improvements to the site need not and should not stop at this "first phase" of redevelopment.

I have thoroughly reviewed Malarky's "phase two" improvement and remodel plan which include a new outdoor dining area, an expansion and remodel of the in-door dining area, the use of valet parking, while maintaining the current hours of operation for the entire venue. Contrary to the opinions of a few misinformed residents, I am certain that the proposed improvements will NOT be a nuisance to the surrounding area but instead greatly benefit the City of Newport Beach, its residents and visitors by:

1. Generating taxable revenue for the City;
2. Creating an attractive retail/restaurant district; and
3. Attracting sophisticated clientele.

For the aforementioned reasons, I would like to express my unequivocal support for ALL of the proposed improvements to Malarky's. Additionally, I urge you, on behalf of the City of Newport Beach Planning Department, to approve the current set of plans in their present form and immediately issue a building permit to Malarky's ownership so that they may begin "phase two" construction.

Very Truly Yours,


Frank R. Fasel
Partner

Attachment No. PC 8

Correspondence in Opposition



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: STEVE NICHOLSON Signature: Steve E. Nicholson

Address: 212 BOA STREET

City: NEWPORT BEACH Zip: 92662

Home Phone: 949 675-6939 Cell Phone: 949-233-4416

E-Mail Address: bchnick@pacbell.net

Question / Comments: Looks good. KEEP UP THE GOOD WORK AND
improvements.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JOE CERRASI Signature: [Signature]

Address: 209 30th ST

City: N.B. C.A. Zip: 92663

Home Phone: _____ Cell Phone: 9. 929. 6977

E-Mail Address: JOECERRASI@GMAIL.COM

Question / Comments: GIVE THE BAR/REST. OWNERS

A CHANCE BE SUCCESSFUL. GIVE THE

COMMUNITY A CHANCE TO ENJOY THESE

LOCAL ESTABLISHMENTS!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: BRAD JACOBSEN Signature: Brad Jacobsen

Address: 219 1/2 PROSPECT ST.

City: NEWPORT BEACH, CA Zip: 92663

Home Phone: (949) 650-5749 Cell Phone: 949 285-6300

E-Mail Address: bdjac@yahoo.com

Question / Comments: The city of Newport will
definitely benefit from these improvements.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Dave Vincent Signature: [Signature]

Address: 128 1/2 42nd Str.

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: 860-227-6157

E-Mail Address: Dave.Vincent1@gmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Adrianna Rada Signature: Adrianna Rada

Address: 3410 1/2 Marcus Ave

City: Newport Beach, CA Zip: 92663

Home Phone: N/A Cell Phone: _____

E-Mail Address: _____

Question / Comments: I support the project! I love² the plans!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: KEITH DAVIDSON Signature: owner/president Malarky's

Address: 3012 NEWPORT BLVD

City: NEWPORT BEACH Zip: 92663

Home Phone: _____ Cell Phone: 310-318-4983

E-Mail Address: _____

Question / Comments: I completely support the

project at Malarky's.
Great Idea!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: ALI RABBANI / Ali Rabbani

Address: 1976 NEWPORT BLVD

City: COSTA MESA Zip: 92627

Home Phone: 949-645-8384 Cell Phone: 949-331-4101

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Nicole Schmitz Signature: Nicole Schmitz

Address: 1658 Marguerite Ave

City: Corona del Mar, CA Zip: 92625

Home Phone: _____ Cell Phone: 909 851 4126

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Kelly Banks Signature: Kelly Banks
Address: 111 27th Street New KB
City: Newport Beach Zip: 92663
Home Phone: 949-307-0906 Cell Phone: None
E-Mail Address: _____

Question / Comments: As a resident, I feel that the expansion plan will only improve the quality and benefit the patrons. There is no logical reason why this improvement should not be supported. It will only support and improve



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Asia Fellows Signature: [Signature]
Address: 111 27th St.
City: NB, CA Zip: 92663
Home Phone: (91) 233.1377 Cell Phone: [Blank]
E-Mail Address: afellows@volcom.com

Question / Comments: As a resident, i feel this expansion
is a value to the community! ... its a landmark!
we should allow & support existing businesses to
improve!! It only adds value-add to Newport beach!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Nathan Mulhern Signature: [Signature]

Address: 610 Clubhouse Ave

City: Newport Beach Zip: 92663

Home Phone: 949-270-6400 Cell Phone:

E-Mail Address: nbmulhern@hotmail.com

Question / Comments: Upgrading from a "party bar" to a meeting place with great food and upgraded facilities will only enhance the appeal of the restaurant itself as well as the surrounding neighborhood.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: DOANE BRAUN Signature: Doane A. Braun

Address: 3503 Seashore Rd

City: Newport Beach Zip: 92663

Home Phone: 9548-9495 Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____

I, Douglas Cianfrocca, at 2508 W. Oceanfront Newport Beach 92663, approve of the Malarky's Expansion and everything Mario Marovic has done in Newport Beach.

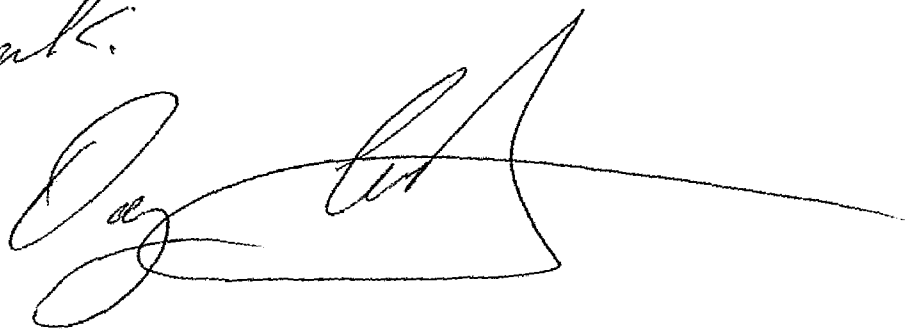
Phone 949-269-0178.

2-27-11

See attached hand written and executed petition.

I Douglas D. DiStrocco @
2588 W. Oceanfront N.B. Pch.
92663. Ph # (714) 269-0178.

I approve of Marovick's
expansion and everything Marovick
has done in
Newport Bank.



2/27/11



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Addy Haga Signature: Addy Haga
Address: 3206 West oceanfront
City: Newport ^{Beach} CA Zip: ~~92660~~ 92663
Home Phone: 253 441-0980 Cell Phone: same
E-Mail Address: adrianna.haga@bbr@gmail.com
Question / Comments: I Support the project + expansion. I love
Malarky's



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Megan Pacher Signature: Megan Pacher

Address: 200 E 15th Street

City: Newport Beach Zip: 92663

Home Phone: Cell Phone: 618-973-1170

E-Mail Address: MPacher@Sive.edu

Question / Comments: I support the project & the
expansion! I love Malarky's



- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

Question / Comments: I support the project & expansion.
I love Malarkys!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Jenna Rada Signature: Jenna Rada

Address: 3410 1/2 Marcus Ave

City: Newport Beach, CA Zip: 92663

Home Phone: N/A Cell Phone: 781-392-4063

E-Mail Address: N/A

Question / Comments: I support the project and
look forward to the new improvements



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Anna Buchta Signature: Anna Buchta

Address: 3410 1/2 Marcus Ave

City: Newport Beach, CA Zip: 92663

Home Phone: N/A Cell Phone: 603-801-4304

E-Mail Address: annabuchta@mail.un.edu

Question / Comments: I support the project + look forward to the improvements!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: ~~Matthew Anderson~~ Matt Anderson Signature: 

Address: 2712 32nd St

City: NB Zip: 92603

Home Phone: Cell Phone: 91412 1432

E-Mail Address:

Question / Comments: I support the project and look forward to the expansion.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Luke Martin Signature: [Signature]

Address: 909 3/4 W Balboa Blvd

City: Newport Beach Zip: 92661

Home Phone: 949 698-2040 Cell Phone: Same

E-Mail Address: luke.martin@mac.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Brian Roades Signature: Brian Roades

Address: 21712 32nd St

City: N.B. Zip: 92663

Home Phone: _____ Cell Phone: (818) 383 9141

E-Mail Address: _____

Question / Comments: I support the project & look forward to the expansion!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Miles Smith Signature: [Signature]

Address: 5207 A Seashore Dr.

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: 954 543 2577

E-Mail Address: ISUREDFP@kahoe.com

Question / Comments: I support the project & look forward to the new additions.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: McCall Miller Signature: [Signature]

Address: 21 Balboa

City: Newport Beach Zip: 92663

Home Phone: 0 Cell Phone: 91412-1432

E-Mail Address: millermk@uci.edu

Question / Comments: I support the project and I look forward to the expansion

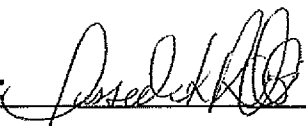


PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Cassandra Rovetti Signature: 

Address: 2608 W. Oceanfront

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: (909) 709-9402

E-Mail Address: cassandrakr@gmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Lindsay Shumway Signature: _____

Address: 3410 1/2 MARCUS Ave

City: Newport Beach, CA Zip: 92663

Home Phone: N/A Cell Phone: 603-205-2399

E-Mail Address: N/A

Question / Comments: I support the project +
can't wait for the new improvements



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Mark Morton Signature: ME [Signature]

Address: 517 Orange Ave

City: Newport Beach Zip: 92663

Home Phone: 949 646-8311 Cell Phone: 949 510-8327

E-Mail Address: MMORTON317@yahoo.com

Question / Comments: I have reviewed the plans for the proposed changes and endorse them 100%.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Rebecca Moore Signature: Rebecca Moore

Address: 1706 W. Oceanfront

City: Newport Beach Zip: 92663

Home Phone: Cell Phone: 949-701-1034

E-Mail Address: moorebecky76@yahoo.com

Question / Comments:



- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

Name: William Allen Signature: Wm B Allen

Address: 801 West Bay Ave

City: Np Beach Zip: 92661

Home Phone: _____ Cell Phone: 909-841-7148

E-Mail Address: _____

Question / Comments: This place needs help
To clean it up.



- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

Question / Comments: This will be a great improvement → especially the bathrooms!
An outside patio would add to the NP Beach ambience.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Rochelle Worthen Signature: Rochelle Worthen

Address: 801 W. Bay Ave

City: Newport Beach Ca Zip: 92661

Home Phone: _____ Cell Phone: 714 393-8061

E-Mail Address: saworthen@yahoo.com

Question / Comments: I've been using these bathrooms
for 30 years. It's time to upgrade.
An outside patio would be a
Major plus!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JOHN RHODES Signature: John E. Rhodes

Address: 1722 MIRAMAR DR

City: NEWPORT BEACH Zip: 92661

Home Phone: 675 1605 Cell Phone: 949 439 9039

E-Mail Address: jrh@balboa@juno.com

Question / Comments: FIRST PRIORITY SHOULD BE TO
UPGRADE THE BATHROOMS.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Chris Morrell Signature: Chris Morrell

Address: 510 1/2 Dahlia Ave

City: CDM Zip: 92625

Home Phone: _____ Cell Phone: (949) 278-9646

E-Mail Address: cmorrell@re-assoc.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Kyle Hart Signature: [Signature]

Address: 3115 Villa Way

City: NB Zip: _____

Home Phone: (949) 439-2009 Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Dwight A Wilson

Address: 678 W. 19th ST #810

City: Costa Mesa Zip: 92627

Home Phone: 949-574-9212 Cell Phone: _____

E-Mail Address: _____

Question / Comments: Please it's a warm friendly place
to go for young + old. Also safe



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Jessica Haefeltinger Signature: [Signature]

Address: 1741 Tustin Ave, 5C

City: CM Zip: 92627

Home Phone: _____ Cell Phone: 949 287 1781

E-Mail Address: JessicaH@hmggroup.com

Question / Comments: Grew up in the area. Truly a welcomed addition to the community.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Robert Haefelfinger Signature: R. Haefelfinger

Address: 1741 TUSTIN AVE, 5C

City: CM Zip: 92627

Home Phone: _____ Cell Phone: 949 287 1780

E-Mail Address: ROBERT.HAEFELFINGER@GMAIL.COM

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Andre Liu Signature: [Signature]

Address: 2920 Newport Blvd

City: NEWPORT BEACH Zip: 92663

Home Phone: _____ Cell Phone: 949 355 9313

E-Mail Address: liu@mlbrenco.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: DOUGLAS A. Thomas, Retired NBP

Address: 452 Vista Roma

City: Newport Beach, CA Zip: 92660

Home Phone: 949-721-0848 Cell Phone: 949-295-6047

E-Mail Address: stocatt@pacbell.net

Question / Comments: Let's permit Malarky's
new owners to upgrade the property &
business to coincide with the
redevelopment of the property(s) at 32nd
& Newport. Now is the time. (yes)



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: TOM HILL Signature: Tom Hill

Address: 701 LIDO PARK DR NEWPORT BEACH
MAILING 2052 NEWPORT BLVD #6-161

City: _____ Zip: _____

Home Phone: 949 910 1704 Cell Phone: _____

E-Mail Address: THILLCO@MSN

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JACK L TENNEY

Address: 4000 HILARIA NEWPORT BEACH CA 92663

City: _____ Zip: _____

Home Phone: 949 285 9185 Cell Phone: 949 285 9185

E-Mail Address: NONE

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: TOM + CECELIA TOBIN

Address: 1529 MIRAMAR DR

City: NEWPORT BEACH Zip: 92661

Home Phone: 949 673-5666 Cell Phone: 949 307-5666

E-Mail Address: TTOMTOB@YAHOO.COM

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Arlene D. McGuy

Address: 1700 Miramar Dr.

City: Newport Beach, CA Zip: 92661-1410

Home Phone: (949) 673-2265 Cell Phone: (949) 433-8670

E-Mail Address: jimmcguy@gmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: James W. McBuy

Address: 1700 Miramar Dr.

City: Newport Beach, CA Zip: 92661-1410

Home Phone: (949) 673-2265 Cell Phone: (949) 433-8670

E-Mail Address: jimmaguy@gmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: VIRGINIA RIGALI

Address: 1703 E OCEAN BLVD.

City: NEWPORT BEACH CA Zip: 92661

Home Phone: 949 673-7271 Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: VIRGINIA TRIGALI

Address: 1703 E OCEAN BLVD.

City: NEWPORT BEACH CA Zip: 92661

Home Phone: 626 236-2947 Cell Phone: 949 500-9686

E-Mail Address: CHARMED1225@yahoo.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Shawn Thayer 

Address: 171 Riverside Ave F-188

City: Newport Beach CA Zip: 92663

Home Phone: _____ Cell Phone: 949-678-9100

E-Mail Address: Sand2Surf@gmail

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: CHARLES MARTIN GUAJARDO

Address: 1549 PLACENTIA AVE #220

City: NEWPORT, CA. Zip: 92663

Home Phone: _____ Cell Phone: 949-307-0339

E-Mail Address: CHARLES GUAJARDO @ROCKETMAIL.COM

Question / Comments: MALARKYS IS NEWPORT BEACH
IF YOU WANT TO IMPROVE YOUR CITY
LET IT HAPPEN



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Michael Davis

Address: 1908 Coast Street

City: Newport Beach, CA Zip: 92663

Home Phone: 321-566-9302 Cell Phone: _____

E-Mail Address: davis.michael23@yahoo.com

Question / Comments: 'C'



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Brian T O'Brien

Address: 209 28th St APT A

City: NPB CA Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____

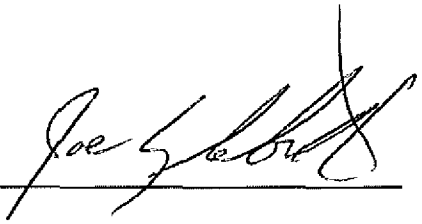


PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JOE ENGLEBRECHT 

Address: 404 40th ST

City: NEWPORT BEACH (Newport Island) Zip: _____

Home Phone: _____ Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Gregg Schaeberle

Address: 323 Holmwood

City: Newport Beach Zip: 92663

Home Phone: 949 463 1732 Cell Phone: SAME

E-Mail Address: CALOBSTERZONE@GMAIL.COM

Question / Comments: Please Approve

ASAP



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JONATHAN MARKOVICH

Address: 700 LIDO PARK DRIVE #10

City: NEWPORT BEACH CAL Zip: 92663

Home Phone: 949-675-0930 Cell Phone: 714-742-0845

E-Mail Address: JIMMARKOVICH@AOL.COM

Question / Comments: MARIO IS IMPROVING NEWPORT
BEACH ONE BAR AT A TIME. HE
IS AN ASSET TO THE COMMUNITY



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Frank McNaughton

Address: 220 3rd St

City: N.P. Ca Zip: 92663

Home Phone: 949-672-5255 Cell Phone: —

E-Mail Address: FrankMc9999@AOL.COM

Question / Comments: About Time !!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: GARY JENSEN

Address: 306 33RD Street

City: N.B. CA - 92666 Zip: 92663

Home Phone: _____ Cell Phone: 951-207-0668

E-Mail Address: garyfjensen@yahoo.com

Question / Comments: _____

Can't wait to see what the place will look like when done with the remodel



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Leon Ettensperger

Address: 3401 Finley ave

City: Newport Beach ca Zip: 92663

Home Phone: Cell Phone: (949) 275-5177

E-Mail Address: LEONETTENSPEERGE@y-mail

Question / Comments: It has a positive out look in the community, tradition, the owners improvement has already Ben great. So let improve it more!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: ARRA SWISHED

Address: 222 20th ST

City: NEWPORT BEACH CA Zip: 92663

Home Phone: 949 673 2076 Cell Phone: _____

E-Mail Address: JEADARIZA@YAHOO.COM

Question / Comments: LONG TIME RESIDENT AND

CUSTOMER.

CREATES JOBS, REVENUE FOR THE CITY

IMPROVES PROPERTY TAX BASE, AND EXPERTLY MANAGED

FOR MINIMAL DISRUPTION TO PUBLIC SERVICES! AMR



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Greg Williams

Address: 220 33rd St,

City: Newport Beach Zip: 92663

Home Phone: 949-673-3253 Cell Phone: 714-747-0304

E-Mail Address: Vetstuf@aol.com

Question / Comments: I have been frequenting Malarky's since 1979 and since the ownership change the quality of service and food has increased greatly. I look forward to a much overdue remodel and am in full support of the new Management



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JEFF & ROCHELLE MYERS

Address: 1215 W. BAY

City: NEWPORT Zip: 92661

Home Phone: _____ Cell Phone: 949-887-3143

E-Mail Address: JEFF@OCOSI.COM

Question / Comments: OK LETS PATIO!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: SEVIN NOSEK

Address: 108 OLIVE

City: N.B. CA Zip: 92663

Home Phone: 714 642-5508 Cell Phone: _____

E-Mail Address: Hopensev@aol.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: MARK LITTLE

Address: 212 1/2 30TH ST

City: NEWPORT BEACH Zip: 92663

Home Phone: 949-887-8653 Cell Phone: N/A

E-Mail Address: N/A

Question / Comments: Good Luck



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Rich RALSTIN

Address: 47 Beacon Bay

City: NEWPORT BEACH CA. Zip: 92663

Home Phone: 714 514-0587 Cell Phone: SAME

E-Mail Address: Rich RALSTIN AT VZW.COM

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Gene Hartline

Address: 1005 Bonnie Doone Terrace

City: CDM Zip: 92625

Home Phone: _____ Cell Phone: 949-212-6106

E-Mail Address: g-hartline@hotmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: DANIEL MARTZ

Address: 4401 RIVER AVE

City: NEWPORT BEACH Zip: 92663

Home Phone: 949 5488788 Cell Phone: _____

E-Mail Address: DMARTZ @ ROADRUNNER.COM

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Dena Baron

Address: 415 Colton St

City: Newport Beach Zip: 92663

Home Phone: 91722-6017 Cell Phone: _____

E-Mail Address: denabaron@yahoo.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Austin Weir

Address: 206 43rd St.

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: ~~at~~ austinpweir@yahoo.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JOSEPH MAGSACAY

Address: 215 34TH ST.

City: NEWPORT BEACH Zip: 92663

Home Phone: _____ Cell Phone: 949-235-9404

E-Mail Address: joemags5@gmail.com

Question / Comments: I FULLY SUPPORT MALARKY'S GROWING TO PROVIDE MORE, QUALITY SERVICE TO THE AREA.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: John Wadsworth

Address: 419 Bellevue Lane

City: NB Zip: 92661

Home Phone: 949 612 8162 Cell Phone: _____

E-Mail Address: John.Wadsworth@colliers.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: BARRY WALSH

Address: 412 LUCANIA ST.

City: NEWPORT BEACH Zip: 92663

Home Phone: (949) 723-8555 Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Clarence Yoshikane

Address: 213 29th St

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: 714-606-5765

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Bill and Janice Walker

Address: 627 Via Lido Sound

City: Newport Beach Zip: _____

Home Phone: 949 625-1041 Cell Phone: _____

E-Mail Address: BWJS2@Hotmail.com

Question / Comments: Love Malarky's they have really been fixing the place up and the food is great!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Amanda Rockwell

Address: 251 Laguna St

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: 949 244-9829

E-Mail Address: rockwell8@aol.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JEFF NORRISINGER

Address: 251 Lugonia Street

City: Newport Beach Zip: 92663

Home Phone: 949)650-0254 Cell Phone: 949)244-9833

E-Mail Address: Rockwell@aol.com

Question / Comments: Lets Do this!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Fred & Jenna Roman

Address: 408 Piazza Lido

City: Newport Beach CA Zip: 92663

Home Phone: 91612. 7489 Cell Phone: 91929. 8314

E-Mail Address: fred.roman@seacoastnational.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: RENE RIMLINGER

Address: 326 62ND ST

City: NEWPORT BEACH CA Zip: 92663

Home Phone: 949/645-2895 Cell Phone: _____

E-Mail Address: RRIMLINGER@YAHOO.COM

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Alison Ryffel

Address: 1730 Mira Mar Dr.

City: Balboa Zip: 92661

Home Phone: 949 6783603 Cell Phone: _____

E-Mail Address: alisonryffel@yahoo

Question / Comments: al Ryffel



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: _____

DAIG RYFFEL

Address: _____

1730 MARIANA

City: _____

NB CA

Zip: _____

92661

Home Phone: _____

Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____

DAIG RYFFEL



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name:

Ryan Johnson

Address:

1935 Sherington Pl # F104

City:

N.B.

Zip:

92663

Home Phone:

Cell Phone:

949-274-5633

E-Mail Address:

Ryan Johnson - cp @ hotmail.com

Question / Comments:

You better be able to watch sports from
the new arrangement! - RJ Do It!

Ryan Johnson 2/17/11



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef
- Better be able to watch sports

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: JOHN CHRISTENSEN

Address: 6310 W. COAST HWY

City: NEWPORT BEACH, CA 92663 Zip:

Home Phone: (949) 933-9858 Cell Phone:

E-Mail Address: JCHRIS44@MSN.COM

Question / Comments:



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: _____

Gregory Ormer

Address: _____

315 Laurel

City: _____

NR

Zip: _____

92667

Home Phone: _____

Cell Phone: _____

E-Mail Address: _____

[Signature]

Question / Comments: _____

I Support Malarky's

*improvement and expansion by
the responsible multi-restaurant
experienced operator*



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Kirsten Schmieder

Address: 217 1/2 29th St.

City: Newport Beach, CA Zip: 92663

Home Phone: 949 675-7217 Cell Phone: 949 903 2833

E-Mail Address: Krschmieder@gmail.com

Question / Comments: Love the outdoor expansion idea



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Scott Roth

Address: 217 1/2 29th St

City: Newport Beach CA Zip: 92663

Home Phone: 949.675.7217 Cell Phone: _____

E-Mail Address: Scott@949lover.com

Question / Comments: I have been coming to
Bar Malarky's for over 26 years and
have never had a problem with the crowd.



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Elizabeth Wiley

Address: 409 Colton Street

City: Newport Beach, CA Zip: 92663

Home Phone: 91642-8862 Cell Phone: 91280-8184

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Math Wiley

Address: 409 Colton Dr

City: Newport Beach CA Zip: 92663

Home Phone: 949-642-6862 Cell Phone: 949-903-2062

E-Mail Address: math@mattwiley.net

Question / Comments: Great enhancement for A
Newport landmark!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Frank Kosi

Address: 2824 Newport Blvd

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: Frank@EmeraldBayCo.COM

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: George Bogan [Signature]

Address: 2200 Park Newport

City: Newport Beach Zip: 92660

Home Phone: 949 759-1727 Cell Phone: _____

E-Mail Address: george.bogan@hotmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Tyler Hendley

Address: 209 32nd

City: NB Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: tyhoyto3@gmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: ROBERT & SHIRLEY HERNANDEZ

Address: 303 33RD ST.

City: NEWPORT BEACH Zip: 92663

Home Phone: (818) 366-7852 Cell Phone: _____

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Candace Tyler

Address: 312 Catalina

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: 949 633 0807

E-Mail Address: candysurfs@aol.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Elliot Laurance

Address: 3004 Cliff Drive

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: 949-293-2354

E-Mail Address: elliottlaurance@yahoo.com

Question / Comments: I definitely recommend this change!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Melinda Simensen

Address: 2888 Bayshore Dr #C-14

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: mmSimensen@Stocglobal.net

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Bill Czarnecki

Address: 2888 Bayshore Dr #c-14

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: mm Simensen @ sbcglobal.net

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Hayley Heck

Address: 201 Via Ravenna

City: Newport Beach CA Zip: 92663

Home Phone: _____ Cell Phone: (949) 466-1142

E-Mail Address: _____

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name:

Kelly Hardwick

Address:

217 33rd

City:

Newport Beach

Zip:

92663

Home Phone:

Cell Phone:

562 522-6082

E-Mail Address:

Hardwickkelly@gmail.com

Question / Comments:

DO IT!! ASAP



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Kendall Booth

Address: 217 33rd street

City: Newport Beach Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: Kendall_Booth@hotmail.com

Question / Comments: I cant wait !!! ☺



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: CINDY FARNEY

Address: 1732 ORCHARD DRIVE

City: NEWPORT BEACH, CA Zip: 92660

Home Phone: N/A Cell Phone: 949.922.5876

E-Mail Address: cindyfarneyrealestate@gmail.com

Question / Comments: I support this as long as you don't lose the quaint pub charm that "Cheers" feel that Malarky's has given us for so many years...and the great food, drinks and most important not overpriced! There's enough high end places in Newport!!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Michael Fargo

Address: 207 1/2 39th st.

City: Newport Beach CA, Zip: 92663

Home Phone: _____ Cell Phone: (808)-282-617;

E-Mail Address: fargo.michael@gmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Drew Peterson

Address: 207 34th St

City: Newport Beach Zip: 92563

Home Phone: 714-585-7271 Cell Phone: _____

E-Mail Address: _____

Question / Comments: Support it



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Steve Patrick SP

Address: 3601 Balboa Blvd

City: NB Zip: 92663

Home Phone: 951.823.2113 Cell Phone: Same

E-Mail Address: SteveSkus@hotmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: BRYAN BOWMER

Address: 36th St.

City: NEWPORT BEACH Zip: 92663

Home Phone: _____ Cell Phone: _____

E-Mail Address: _____

Question / Comments: UPGRADE!!



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Asan Edmunds

Address: 1700 Westcliff Drive

City: Newport Beach Zip: 92660

Home Phone: _____ Cell Phone: 714) 501 8069

E-Mail Address: surfcityca@hotmail.com

Question / Comments: _____



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: WILLIAM L. EBELING

Address: 124 31st

City: N. B. Zip: 92663

Home Phone: 949-548-2343 Cell Phone: 949-292-2343

E-Mail Address: ~~EBELING~~ EBELING1108@AOL.COM

Question / Comments: GOOD IDEA, GREAT FOOD, ENHANCES
THE NEIGHBORHOOD



PETITION

I support Malarky's proposal for an interior re-model/expansion and outdoor dining patio. The proposal will include:

- Upgraded distressed wood interior with new dining booths and exterior with new signs, awnings and entry canopy
- Help dress up Balboa Peninsula image
- Brand new and enlarged ADA compliant restrooms
- Enhanced menu and Executive Chef

For these reasons, and others I respectfully request that the city approve Malarky's proposal.

Name: Cory Booth

Address: 217 33RD Street

City: Newport Beach, Ca Zip: 92663

Home Phone: (949) 278-1221 Cell Phone: (949) 278-1221

E-Mail Address: reachcdb@hotmail.com

Question / Comments: I believe a patio extension to Malarky's would be not only a improvement the the restaurant but to the city of Newport Beach as well

Planning Commission Meeting

Thursday March 3rd, 2011 @ 6:30 p.m.

Malarky's Irish Pub

Project File No: PA2010-172

Activity No: UP2010-039 & CS2001-002

NEWPORT BEACH – DISTRICT 15 OVER CONCENTRATION OF ABC LICENSES

1. Blue Boat
2. Caffè Il Forno
3. Sakee Sushi
4. Arches Restaurant (Closed)
5. Perry's Pizza
6. The Dock
7. Cannery
8. Bluewater Grill
9. Buddha's Favorite
10. Paradise Charters
11. Charlie's Chili
12. Sol Grill
13. Baja Sharkies
14. The District Cocktail Lounge
15. Newport Pier Grill & Sushi
16. The Old Spaghetti Factory
17. Crab Cooker
18. Woody's Wharf
19. Ten Waterfront Restaurant
20. Cassidy's Bar & Grill
21. Sportsman Liquor
22. El Ranchito
23. Matahari Café
24. Newport Beach Brewing Co.
25. Malarkey's Irish Pub
26. Original Mama D's Italian Kitchen
27. Rudy's Pub & Grill
28. Ho Sum Bistro
29. Pescadou Bistro
30. Carnitas La Villa
31. Orca Yacht Charters
32. Las Fajitas
33. Lido Shipyard Sausage Company
34. Lido Merchant
35. Sejour
36. Repetta Café
37. Z Pizza
38. Vons
39. Woody's Diner
40. Majestic – Pacific Avalon Yacht Charters
41. California Beach Restaurant
42. Elks Lodge
43. Royal Princess – Pacific Avalon Yacht Charters
44. White Light
45. Le Bistro
46. Island Girl V – Pacific Avalon Yacht Charters
47. Eternity – Electra Cruises
48. Athens – Finest City Yacht Charters
49. Destiny – Electra Cruises
50. Ambassador – Pacific Avalon Yacht Charters
51. Electra – Electra Cruises
52. Newport Princess
53. Le Bistro Café
54. The Lido Deck
55. Bayfront Café & Restaurant
- 56.
57. Blanca
58. 7-Eleven
59. Original Pizza
60. Picante Grill
61. Aurora
62. Albertsons (Closed)
63. The Beach Ball
64. Blackies By The Sea
65. 21 Oceanfront Restaurant
66. Rockin' Baja
67. El Gelato Caffè
68. Henry's Grocery
69. Mutt Lynchs
70. The Newport Beachwalk Hotel
71. Re Nato Restaurants
72. Chipotle (Pending)
73. Gina's Pizza (Pending)
74. Crow Burger (Pending)

Active Licenses - California Department of Alcoholic Beverage Control for the City of Newport Beach District 15 Report as of 10/15/2010

- License Type 47, 48 (on-sale, spirits, beer & wine)
- License Type 40, 41, 42 (on-sale, beer & wine)
- License Type 20, 21 (off-sale, general (spirits), beer & wine)
- License Type 51, 54 (on-sale, general (spirits), beer & wine, boats, club)

Approx. 770 ft

Data SIO, NOAA, U.S. Navy, NGA, GEBCO
© 2010 Google

Image © 2010 TerraMetrics

THIS INFORMATION HAS BEEN SECURED FROM SOURCES WE BELIEVE TO BE RELIABLE, BUT WE MAKE NO REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY OF THE INFORMATION.

Google



- 2/26/2011 - Winter Pub Crawl which I was told had 300+ people involved going from bar to bar. 30th Street residents got to clean up after 3 people vomited on our side-walk and street. Malarky's cue-line at approximately 4PM for this event.

Neighborhood Area: 15
Last Updated: 2/28/2011 10:20:01 AM

No. Days [Go To Map](#) [Update Now](#)

| Date/Time ▼ | Event No. | Event Type | Location | Disposition |
|--------------------|-----------|-------------------------|------------------------------|------------------------|
| 02/28/2011 2:23AM | 110590022 | PHYSICAL FIGHT | 100 BLOCK MC FADDEN PL | CODE 4 |
| 02/28/2011 12:00AM | 110590001 | DISTURBANCE-PARTY | 2800 BLOCK OCEAN FRONT W | ADVISED/COMPLIED |
| 02/27/2011 11:46PM | 110580221 | PATROL CHECK | 2600 BLOCK NEWPORT BLVD | PATROL CHECK REQUESTED |
| 02/27/2011 11:11PM | 110580214 | DISTURBANCE MUSIC | 2600 BLOCK NEWPORT BLVD | UNFOUNDED |
| 02/27/2011 6:08PM | 110580165 | SUBJECT STOP | VIA LIDO / NEWPORT BLVD | CITED |
| 02/27/2011 2:08PM | 110580126 | DISTURBANCE MUSIC | 100 BLOCK 30TH ST | ADVISED/COMPLIED |
| 02/27/2011 1:35PM | 110580119 | ILLEGAL PARKING | 2800 BLOCK OCEAN FRONT W | GONE ON ARRIVAL |
| 02/27/2011 1:15PM | 110580118 | DRIVEWAY BLOCK | 2700 BLOCK OCEAN FRONT W | GONE ON ARRIVAL |
| 02/27/2011 11:28AM | 110580101 | VEHICLE STOP | MC FADDEN PL / OCEAN FRONT W | ADVISED/COMPLIED |
| 02/27/2011 9:44AM | 110580081 | MEDICAL AID | 400 BLOCK CLUBHOUSE AVE | REPORT TAKEN |
| 02/27/2011 9:31AM | 110580078 | DISTURBANCE | 2300 BLOCK OCEAN FRONT W | GONE ON ARRIVAL |
| 02/27/2011 9:22AM | 110580075 | ALLEY BLOCK | 200 BLOCK 34TH ST | CITED |
| 02/27/2011 8:13AM | 110580066 | INJURED ANIMAL | 23RD ST / BEACH | ACO PICKUP |
| 02/27/2011 2:36AM | 110580039 | DISTURBANCE MUSIC | 100 BLOCK 24TH ST | ADVISED/COMPLIED |
| 02/27/2011 2:26AM | 110580037 | ARREST | 3000 BLOCK NEWPORT BLVD | ARREST |
| 02/27/2011 2:01AM | 110580033 | DISTURBANCE | 2600 BLOCK NEWPORT BLVD | ASSISTED |
| 02/27/2011 1:50AM | 110580031 | PHYSICAL FIGHT | 3000 BLOCK NEWPORT BLVD | CODE 4 |
| 02/27/2011 1:46AM | 110580030 | HIT & RUN MISD JUST OCC | 3000 BLOCK NEWPORT BLVD | ARREST |
| 02/27/2011 1:42AM | 110580029 | DRUNK IN PUBLIC | 100 BLOCK 25TH ST | GONE ON ARRIVAL |
| 02/27/2011 12:59AM | 110580020 | DISTURBANCE-PARTY | 100 BLOCK 35TH ST | ADVISED/COMPLIED |
| 02/27/2011 12:21AM | 110580006 | DISTURBANCE MUSIC | 500 BLOCK 35TH ST | ADVISED/COMPLIED |
| 02/26/2011 11:58PM | 110570191 | VEHICLE STOP | 32ND ST / SEASHORE DR | ADVISED/COMPLIED |
| 02/26/2011 11:38PM | 110570187 | SUBJECT STOP | 2200 BLOCK NEWPORT BLVD | CITED |
| 02/26/2011 11:34PM | 110570186 | VEHICLE STOP | 32ND ST / NEWPORT BLVD | ADVISED/COMPLIED |
| 02/26/2011 11:25PM | 110570183 | DISTURBANCE MUSIC | 500 BLOCK 35TH ST | ADVISED/COMPLIED |
| 02/26/2011 11:06PM | 110570180 | DISTURBANCE-PARTY | 100 BLOCK 37TH ST | ADVISED/COMPLIED |
| 02/26/2011 9:37PM | 110570159 | VEHICLE STOP | 22ND ST / BALBOA BLVD W | CITED |
| 02/26/2011 9:16PM | 110570157 | DISTURBANCE MUSIC | 2600 BLOCK NEWPORT BLVD | UNFOUNDED |
| 02/26/2011 8:46PM | 110570150 | VEHICLE STOP | FINLEY AVE / NEWPORT BLVD | ADVISED/COMPLIED |
| 02/26/2011 8:35PM | 110570148 | RED ZONE VIOLATION | 100 BLOCK 33RD ST | CITED |
| 02/26/2011 8:09PM | 110570145 | WATER/SEWER PROBLEM | 200 BLOCK 30TH ST | MESSAGE DELIVERED |
| 02/26/2011 7:48PM | 110570138 | MEDICAL AID | BALBOA BLVD W / 23RD ST | ASSISTED |
| 02/26/2011 4:30PM | 110570119 | CITIZEN/AGENCY ASSIST | NB NEWPORT BLVD / 28TH ST | ASSISTED |
| 02/26/2011 3:44PM | 110570111 | RED ZONE VIOLATION | 25TH ST / BEACH | MOVED BY OWNER |
| 02/26/2011 2:27PM | 110570103 | MEDICAL AID | 2700 BLOCK NEWPORT BLVD | HANDLED AT STATION |
| 02/26/2011 12:11PM | 110570084 | DRIVEWAY BLOCK | 200 BLOCK 32ND ST | GONE ON ARRIVAL |
| 02/26/2011 11:20AM | 110570078 | WELFARE CHECK | 2800 BLOCK NEWPORT BLVD | CODE 4 |

- Police calls for service reflecting hit and run fight and arrest for 2/27/2011 illustrated in the following slides.



- 2/27/2011 - Malarky's apparently had a fight in front of the property at approximately 1:50AM according to police. Photos show a PD SUV facing on-coming traffic in front of Malarky's.



- 2/27/2011 - DUI hit & run- 1:46AM- A Malarky's patron slammed into a parked car in Malarky's parking lot pushing it side-ways into the planter and wall. This individual then proceeded to flee and drive up 30th Street. I was told that this individual was later arrested.



- 2/27/2011 – 1:46AM - Additional police units that had to respond to the fight and hit and run. At least 4-5 police units responded to this incident.



- 2/27/2011 - 2:26AM - As I was talking to one of the officers when we both watch a intoxicated individual stumble across the intersection at 30th & Newport Blvd. Officers proceeded to arrest him.

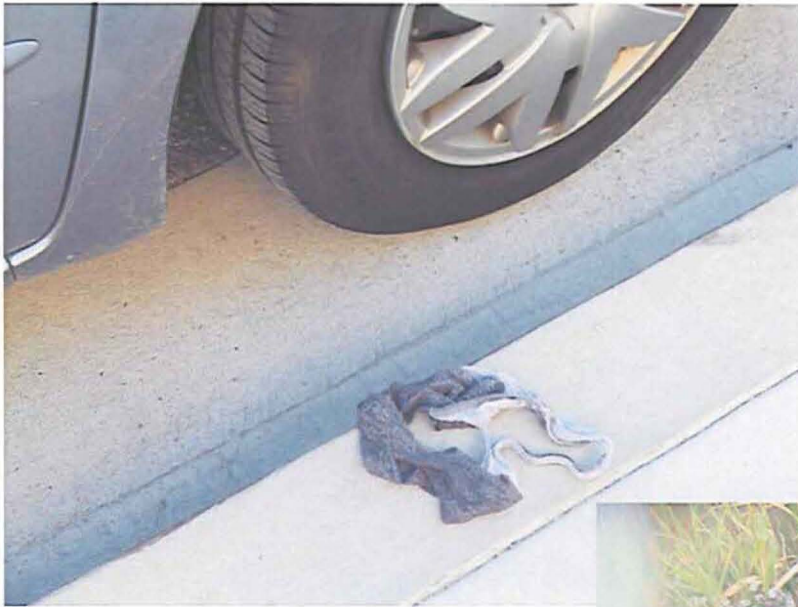
 : Protects suspect's identity.



- 1/9/2011 – 1:12AM, 30th Street - Residents of 30th had an intoxicated individual male at 12:50 AM throw a metal “For-Sale” sign into a parked car. He then proceeded to kick-in the front gate of the property and tried to break into the vacant condo and then proceeded to try to break into the occupied condo next door. He was detained by the residents and arrested.



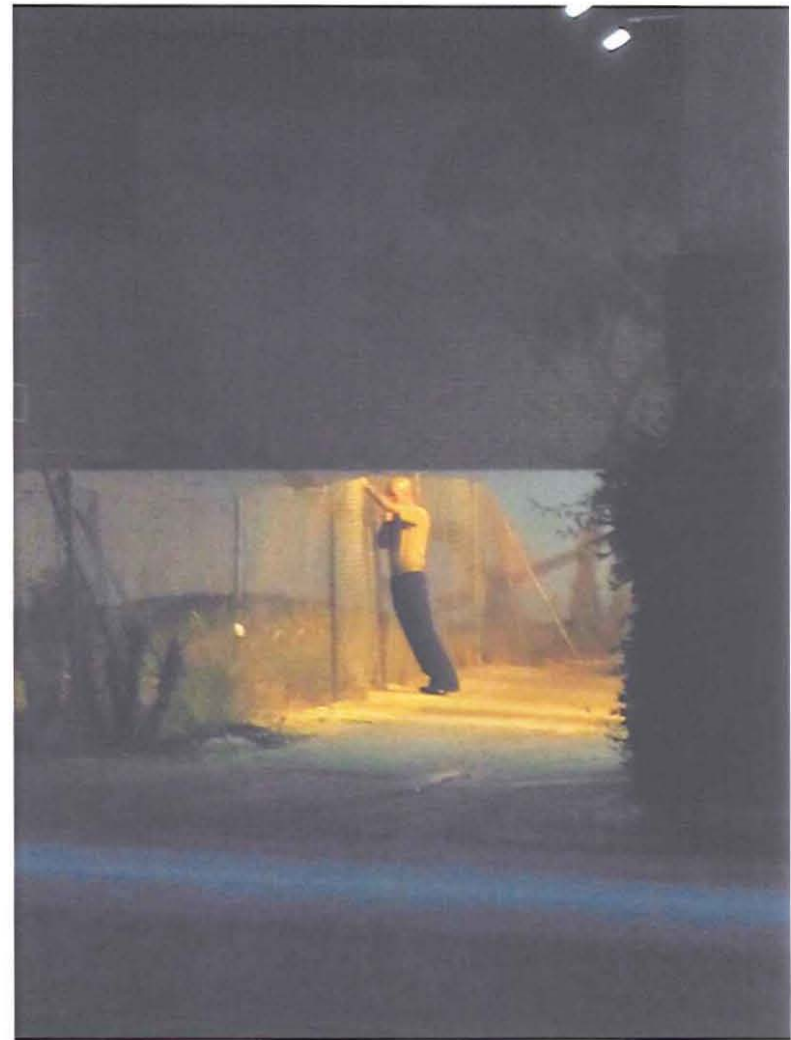
- Often times on Saturday and Sunday mornings, residents awake to find that patrons that have frequented the bars are blocking residents' driveways. Vehicles are often cited and towed.



- Often residents get to start their weekends cleaning up vomit, broken bottles, under garments, and even condoms on the streets, sidewalks and even their front porches. Also, side-view mirrors of parked cars have been kicked in.



- 2/18/2011 – 11:30PM – More police presence at Malarky's parking lot. Believed to be an intoxicated individual or a drunk driver.



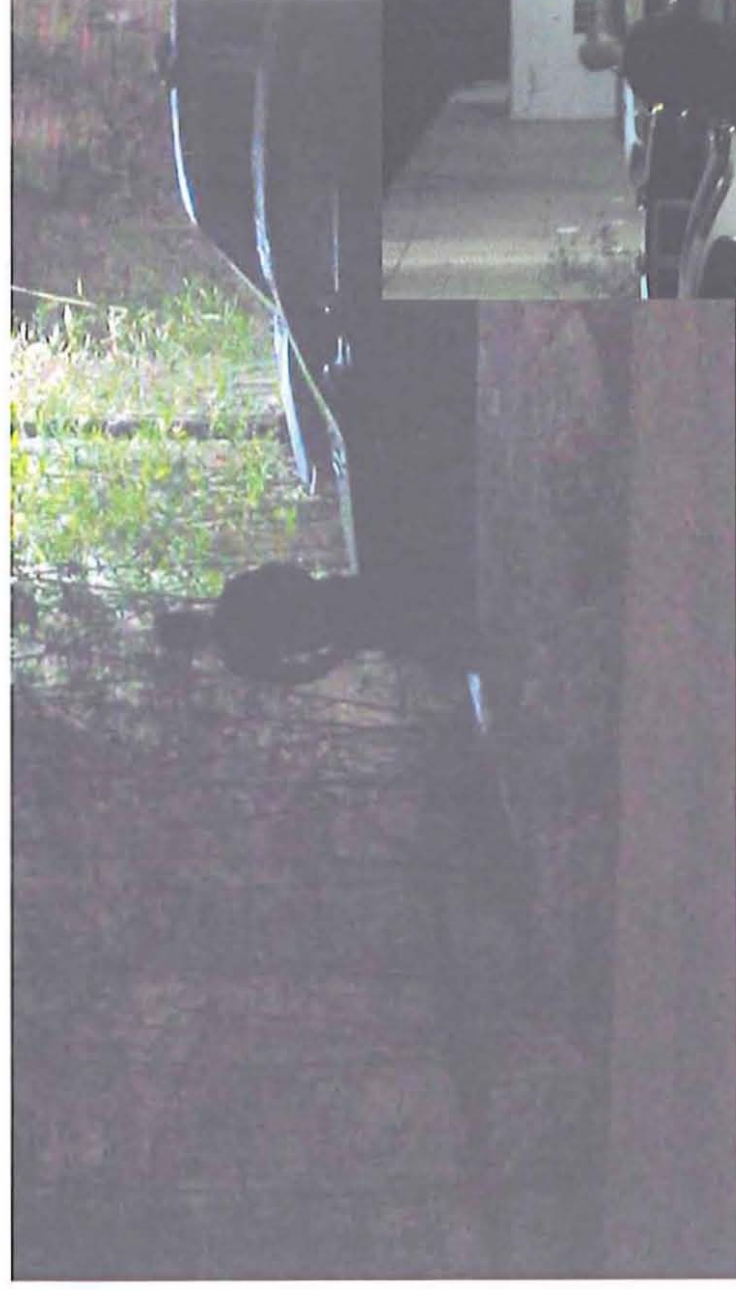
- Individual urinating on Malarky's side door before construction of the new parking lot.
- Intoxicated individual vomiting and holding on to the fence for balance adjacent to Malarky's.



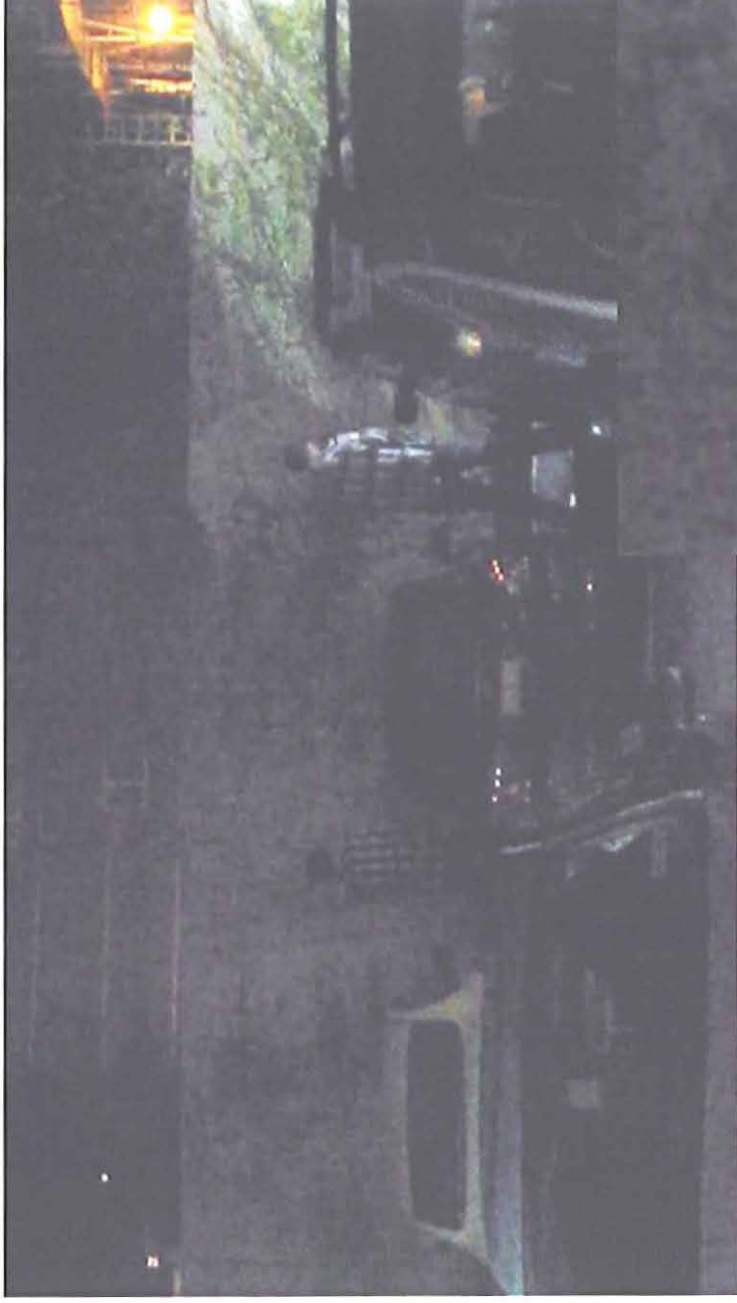
- Groups of people running across the Newport Boulevard going to and from Malarky's. This is a constant occurrence and creates traffic obstructions/safety issues.



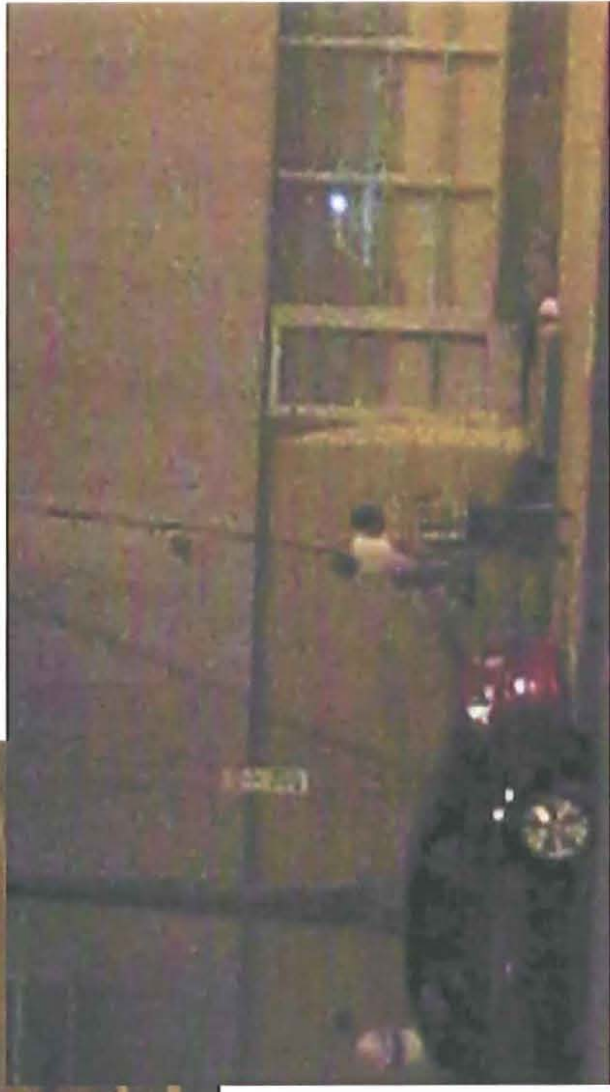
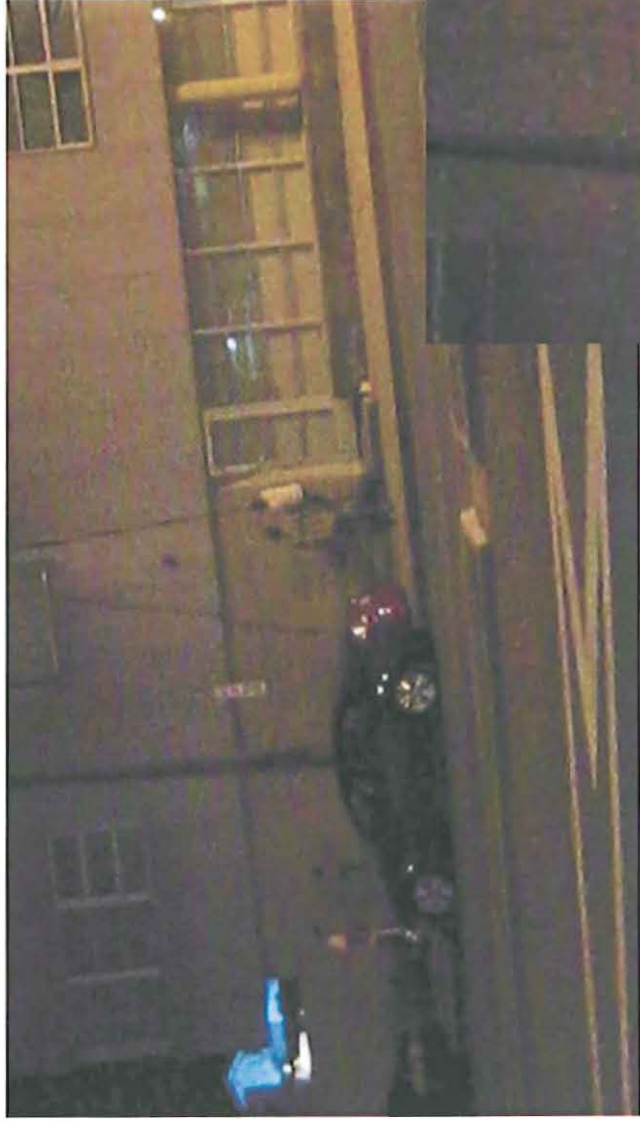
- More photos of people running across the street. Taxi cab had to stop in the middle of the street in order not to hit the pedestrians.



- More individuals urinating in Malarky's new parking lot.



- 2 individuals urinating on the bamboo plants in Malarky's new parking lot.



- Individuals trying to climb up the metal drain line on the building directly across the street from Malarky's.



- Individual urinating into a trash barrel located in Malarky's parking lot.



- Cue line crowds blocking sidewalk in front of Malarky's.



[HOME](#) [CHECKLIST](#) [MAKEUP TIPS](#)

Saturday October 30th - 2:00pm at Malarky's parking lot

Meet at 2:00am at Malarky's parking lot to put the finishing touches on the zombie costumes, practice your moans, and gather the horde to march to the first bar!

| Time | Bar | Specials |
|--------|--------------------------|---|
| 2:00pm | Malarky's Parking Lot | Free Zombie Hair & Makeup by Marinello Schools of Beauty \$5 Lunch Specials, \$3 Bud & Coors Light, \$4 Stella, Blue Moon & Sam Adams Octoberfest, \$3 Zombie Shots |
| 4:00pm | Blue Beet | \$4 Zombie Shots, \$3 Bud Light |
| 5:30pm | Sharkeyz | Free Appetizer Sampler, Drink Special |
| 7pm | The District | Costume contest and DJs \$4 Red Death Shots |

DRESS LIKE ZOMBIE. BUY WRISTBAND (Drink Specials at all bars, automatic entry in raffle contest, and Free Entry to Undead DJ Party at The District)

Wristbands can be purchased presale online for \$8 and picked up at the Malarky's parking lot from 2:00 - 5:30pm. After 5:30 wristbands are available at The District.

PURCHASE WRISTBAND AT THE EVENT! \$8 presale INCLUDES DRINK SPECIALS, FREE ENTRIES, CASH ONLY.

Tickets available at Malarky's! See you today, the horde marches... The zombie march is open to all ages. ID is required to drink at all venues.

Copyright © 2009 LocalHipster.com. All rights reserved.